

**CITY OF ELGIN
GUIDELINES AND CRITERIA
FOR
ENTERING INTO ECONOMIC DEVELOPMENT
INCENTIVES AGREEMENTS**

This Policy establishes the criteria and method to be used for economic development incentives for qualified projects within the City of Elgin (The City). Potential Economic Development Agreements shall comply with the following:

WHEREAS, the City is committed to the promotion of the highest quality development and to improving the quality of life for its citizens;

WHEREAS, the competitive nature of municipalities on the local, state and national level necessitates additional inducements, under certain circumstances, to attract commercial development and business to the City;

WHEREAS, the City may consider, on a case-by-case basis, the use of economic development incentives and tax abatements to attract high quality economic growth; the expansion of the local economy; and commercial development which will generate job creation and a diversified tax base;

WHEREAS, the City's GUIDELINES AND CRITERIA establishes, as the ultimate goal and public purpose, the protection and enhancement of the City's fiscal ability to provide high quality municipal services for the safety, comfort and enjoyment of its citizens;

WHEREAS, it is in the best interest of the City, on a case-by-case basis, to work with Commercial Developers toward the development of mutually agreeable terms and conditions that, if approved and executed by both parties, may allow Commercial Developers to more quickly and easily develop property within the City;

NOW, THEREFORE, as a result of the above and foregoing premises (which are true and correct and made a part hereof), the City desires to outline in this GUIDELINES & CRITERIA certain provisions, which may be included within a definitive agreement, which may be negotiated between the Developer and the City regarding the same, as follows:

Section 1: PURPOSE

- (a) The City of Elgin's goal in offering incentives is to promote economic activity and increase the City's tax base. Consideration in offering incentives will be given to those projects that facilitate investment and development opportunities in any location inside Elgin's corporate City Limits. New and expanding businesses are especially encouraged to apply for incentives in the "Main Street Program District" to expand and develop the downtown shopping experience for the community.

To meet these objectives, the City of Elgin will, on a case-by-case basis, consider providing economic development incentives to assist in the recruitment of new, high quality businesses and expansion of existing businesses. The individualized design of a total incentives package for each applicant will provide the City with maximum flexibility in order to best provide for the needs of the developer and the City.

- (b) Participation in economic incentives or tax abatement does not remove any obligation to satisfy all codes and ordinances issued by the City, or any affected taxing jurisdiction that may be in effect and applicable at the time this project is implemented.

Section 2: DEFINITIONS

- (a) "**Abatement**" means the full or partial exemption from ad valorem taxes of certain eligible property in a Reinvestment Zone designated for economic development purposes.
- (b) "**Agreement**" means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- (c) "**Base Year Value**" means the assessed value of eligible property January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- (d) "**Deferred Maintenance**" means improvements necessary for continued operations that do not improve the productivity or alter the process technology.
- (e) "**Economic Life**" means the number of years a property improvement is expected to be in service in a facility, as determined by the City Council.
- (f) "**Eligible Jurisdiction**" means the City of Elgin or other special taxing districts that levy ad valorem taxes upon, and provide services to, property located within a proposed or existing reinvestment zone.
- (g) "**Expansion**" means the addition or enlargement of buildings, structures, fixed machinery, or equipment for purposes of increasing production capacity.
- (h) "**Facility**" means property improvements completed or in the process of construction which together comprise an integral whole.
- (i) "**Infrastructure**" means the costs associated with paving, water, sewer, and drainage facilities. It may also include the costs associated with telephone, Internet, telecommunications equipment, cable, and electricity.
- (j) "**Manufacturing Facility**" means buildings and structures including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change, including the assembly of goods and materials from multiple sources, in order to create a finished or semi-finished product.
- (k) "**Modernization**" means the replacement and upgrading of existing facilities, which increases the productivity input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing, or repairing except as may be integral to or in direct connection with an existing expansion.

- (l) **"New Facility"** means a property previously undeveloped that is placed into service by means other than or in conjunction with expansion or modernization.
- (m) **"Professional Office Facility"** means buildings or structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services which results in the creation of new permanent jobs and creates wealth in the City.
- (n) **"Productive Life"** means the number of years a property improvement is expected to be in service.
- (o) **"Project"** means any property improvement including expansions, modernization, and new facilities; but excluding any deferred maintenance.
- (p) **"Distribution Center Facility"** means buildings and structures, including machinery and equipment, used primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- (q) **"Entertainment or Tourism Facility"** means buildings and structures, including machinery and equipment, used or to be used to provide entertainment and/or tourism related services.
- (r) **"Retail Facility"** means buildings and structures including fixed machinery and equipment, used or to be used to provide retail services.
- (s) **"Service Facility"** means buildings and structures, including machinery and equipment.
- (t) **"Reinvestment Zone"** means any area of the City that has been designated a reinvestment zone for tax abatement purposes and which is located within the taxing jurisdiction of the City. It is the intent of the City to designate reinvestment zones on a case-by-case basis in order to maximize the potential incentives for eligible enterprises to locate or expand in the City.
- (u) **"Research Facility"** means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (v) **"City"** means the City of Elgin, Texas.

**Section 3: TEXAS LOCAL GOVERNMENT CODE CHAPTER 380.001
ECONOMIC DEVELOPMENT INCENTIVES**

- (a) **Economic Development Incentives.** The City, may by resolution, enter into an economic development incentives agreement as permitted by Chapter 380.001 of the Texas Local Government Code. An incentive may include but is not limited to:
 - (1) **Sales Tax Rebate.** The City collects 1% sales tax on any taxable retail sale made in the City limits, which is earmarked for the City's general fund. The City will consider rebating back to the developer all or a portion of the 1% sales tax generated from the project on new or increased sales' tax dollars produced due to new business, and/or the relocation or expansion of existing businesses in Elgin. The City shall not provide any sales tax rebates for any period during the term of which the City has not received sales tax revenue from taxable sales by the applicant or development. Rebates shall only be given upon documentation from the business receiving the sales tax rebate showing that all terms and conditions in the agreements between the business and the City have been met. The business shall be responsible for submitting any additional data the City determines is appropriate to support documentation of the sales tax rebate. Any EEDC sales tax rebate shall be subject to that Board's approval.

- a. **Rebate.** In an agreement between the business and the City, the City shall agree to rebate to the business a percentage of sales tax revenues, paid by the business back to the business, per a predetermined schedule listed in the agreement.
 - b. **Sales Tax Reporting.** The business shall provide the City with a sales tax schedule detailing the sales tax revenues from sales tax during each quarter for the year prior to the issuance of a sales tax rebate from the City. Within thirty (30) days after the end of each calendar quarter for which a business receives a sales tax rebate, the business shall submit to the City a sales tax schedule detailing the sales tax revenues from sales occurring during each quarter. As backup for each sales tax schedule, the business shall submit such data as the City determines is appropriate to support documentation of reported sales tax revenues. Rebates shall be given quarterly only after receipt of a sales tax schedule and supporting data from the business.
 - c. **Verification.** The business shall supply the City with their sales tax permit number and sign appropriate documentation allowing the City to access sales tax information on the business from the State Comptroller. The City may at any time perform an audit of the Sales Tax Revenues reported by the business receiving the sales tax rebate and shall determine whether the business has properly calculated the sales tax according to the sales tax schedules received by the City. If an audit determines that the sales tax revenues have been understated, then the City shall pay to the business the appropriate amount based on the conclusion of the audit. If the audit determines that the sales tax revenues have been overstated, then the business shall pay such amount to the City within 30 days of receiving notice from the City.
- (2) **Property Tax Rebate.** The City of Elgin currently has a property tax rate equal to \$0.750110 per \$100 current value of the property, which is earmarked for the City's general fund. The City will consider rebating all or a portion of the property tax generated from the project on new or increased property tax dollars produced due to new business and or the relocation or expansion of existing businesses in Elgin. The City shall not provide any property tax rebates for any period during the term of which the City has not received property tax revenue by the applicant or development. Property tax rebates shall be issued on an annual basis at a schedule to be determined by the City Manager or his or her designee. Rebates shall only be given upon annual documentation from the business receiving the property tax rebate showing that all terms and conditions in the agreement between the business and the City have been met. The business shall be responsible to submit any additional data the City determines is appropriate to support documentation of the property tax rebate.
- (3) **Development Fee Rebate.** The City will consider rebating all or a portion of certain permit and development fees upon approval of the City Council. The City shall allow building fees, permit application fees and fees associated with planning to be rebated back to a business. The City shall not allow impact fees, drainage fees, and water or wastewater fees to be rebated back to a business. The City shall not provide any development fee rebates for any period during the term of which the City has not received development fees by the applicant or development. Development fee rebates shall be issued only after a business has received a certificate of occupancy.

Rebates shall only be given upon documentation from the business receiving the development fee rebate showing that all terms and conditions in the agreement between the business and the City have been met.

- (4) **Minimum Investment.** The basic criteria for a new business to the City is an investment of not less than five hundred thousand dollars (\$500,000.00) in real and personal property, the generation or addition of not less than five hundred thousand dollars (\$500,000.00) in taxable sales, and the creation and or retention of at least five (5) jobs . The basic criteria for a business expansion or modernization is an investment of at least \$125,000.00 in real and personal property, the generation or addition of not less than \$125,000.00 in taxable sales, and the creation and or retention of at least two (2) jobs.

- (5) **Loans and Grants.** The City may provide subsidized loans or grants upon approval of the City Council. Any loans and grants shall be paid solely from lawful available funds, which have been appropriated by the City. The City shall have no obligation or liability to pay any portion of the Grant unless the City appropriates funds to make such payment during the budget year in which the Grant is payable.
 - a. **Provide Personnel.** The City may provide personnel and services of the municipality upon approval of the City Council.
 - b. **Waiving of Fees.** The City shall allow building fees, permit application fees and fees associated with planning processes to be waived as a business incentive. The City shall not allow impact fees, drainage fees, and water or wastewater fees to be waived as a business incentive.
 - c. **Extension, Construction or Reconstruction of Infrastructure.** The City may assist with the extension, construction or reconstruction of infrastructure necessary for the development of a project upon approval of the City Council. Within the agreement between the business and the City, the City Manager or his or her designee will determine maximum dollar amounts that the City cannot exceed in assisting in infrastructure improvement projects. This is to protect the City from unforeseen costs and rising market rates. The City will consider all revenue sources to assist a developer in making infrastructure improvements. The City will also consider offering in kind municipal services as a means to partner with developers in order to be able to make infrastructure improvements.

- (6) **General Review Criteria.** Any consideration of economic development incentives or tax abatement shall be accompanied by an application and shall be reviewed by the City Council. The review process shall be considered on the "Value Added" elements of the project. A request for economic development incentives or tax abatement shall not be granted if the City Council finds that the request for economic incentives or tax abatement was filed after the commencement of construction, alteration, of installation of improvements related to a proposed expansion, modernization, or new facility authorized as eligible under these guidelines.

Incentives will be considered on a case-by-case basis commensurate with the quality and character of the development and the extent to which it contributes to the accomplishment of community character and quality of life objectives.

(7) **Application.**

- a. The written application for the requested incentives or tax abatement shall be obtained from and be submitted to the City Manager or his or her designee at 310 N Main Street, Elgin, Texas 78621.
- b. The applicant shall address all criteria set forth in this policy.
- c. The applicant shall provide all documents requested by the application as well as any other documents the City shall request.
- d. The applicant shall provide a plat, map or survey showing the location of the property and the project, all streets, land uses and zoning within 500 feet of the site.
- e. The applicant shall provide a legal description of the property, the name, address, and phone number of the owner of the property; the tenants or proposed tenants, if any; and state whether the property is owner occupied or leased.
- f. The applicant shall describe in detail the project including the proposed use, general nature and extent of the modernization or expansion as well as a descriptive list of improvements in kind, number, and location that will be part of the project.
- g. The applicant shall identify the infrastructure construction that will be required to serve the proposed project and the estimated cost of said construction.
- h. The applicant shall identify any economic development incentives or tax abatement requested.
- i. The applicant shall provide a time schedule for undertaking and completing the planned improvements.
- J. The applicant shall provide appropriate financial information showing the applicant is financially stable and able to see the project through to completion.

(8) **General Review Process.**

- a. The application will be reviewed by the City Manager or his or her designee, Economic Development Director, Planning Director, Public Works Director, Police Chief, Fire Chief, Building Inspector or those designated by the City to serve in those capacities. The purpose of the review will be to determine the impact of the development on City Services.
- b. The Economic Development Director or the person designated by the City to serve in that capacity will perform a further analysis of the project prior to any incentives or tax abatement being offered. The analysis will include a description of the project, statement of improvements, map of location, project time schedule for completion, due diligence into soundness of the business, financial ability to complete the project in a timely manner, a determination as to the number of jobs created, the pay level of the jobs created, level of investment to be made, tax return anticipated in amount of property and sales tax generated, other City revenue anticipated, fiscal, social, and community impact of the project to the City, County, and School District, and other taxing entities, the cost and benefit to the City among other items that may be specific to the project and enable the City to make an informed decision.
- c. Prior to a recommendation being made to the City Council, a meeting will be set up between the applicant, the City Manager or his or her designee and the Economic

Development Director or the person designated by the City to serve in that capacity to discuss incentives.

- d. The meeting will result in a recommendation being made to the City Council. Any economic development incentives or tax abatement shall be approved by the City Council.
- e. The City Council will conduct a public hearing when required by law.
- f. All documents shall be provided to the City in digital format.

(9) **Agreement.**

- a. A completed written application for the requested incentives or tax abatement.
- b. The agreement shall determine an appropriate schedule for build out. Benchmarks will be established for the developer to reach build out within a reasonable amount of time. If the developer fails to begin construction and reach benchmarks established by the City, the City may cancel the agreement for lack of performance.
- c. The agreement shall define the project by acreage, location and projected land use. The agreement shall state the estimated real property value in current dollars for each five year period until total build out and the estimated ad valorem revenue for each five year period until total build out based upon the current City ad valorem tax rate. Also, the agreement shall state the estimated sales tax generated for every five-year period of the agreement based upon estimated build out of retail acreage.
- d. The agreement shall state the amount and type of incentives or tax abatement requested and detail each project cost in current dollars. If incentives for infrastructure are requested, the request shall present a detailed list of infrastructure costs.
- e. A method for determining qualifications for meeting criteria set by the City of Elgin through a negotiation process.
- f. Amount of investment and average number of jobs associated with the project during the economic development incentives or tax abatement agreement. Priority will be given to projects that create higher income jobs.
- g. An applicant's promise to meet and maintain these qualifications over the term of the agreement. This may require the submission of an annual report to the City Manager demonstrating that the terms and conditions required to receive an incentive have been met, and the City will be allowed, upon written request and reasonable notice, to conduct a performance review at any time, inspect and audit such records as are necessary to substantiate that the applicant is meeting the criteria agreed upon during the term of the incentives or tax abatement. If the performance review shows that the criteria established in the incentives agreement are not being met, the City reserves the right to cancel the agreement for lack of performance.
- h. A provision for recapturing City expenditures and or cost of labor associated with the agreement, in the event the company or individual is found to be in default according to the terms and conditions of the incentives or tax abatement agreement.
- i. The commencement and termination dates of the economic development incentives or tax abatement.
- j. The agreement shall reserve the right of the City to enter into separate Economic Development Agreements in the event that future projects may warrant consideration

under the GUIDELINES AND CRITERIA, provided that existing Economic Development Agreements are not adversely impacted.

- k. Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information for evaluation of the application to the City.

Section 4: ABATEMENT AUTHORIZED

- (a) **Authorized Facility.** A facility may be eligible for abatement if it is a: Retail/Restaurant Facility, Manufacturing Facility, Research Facility, Distribution Center Facility, Service Facility, Entertainment or Tourism Facility or any other Basic Industry.
- (b) **Authorized Date.** A facility shall be eligible for tax abatement if it has applied for such abatement prior to the commencement of construction, provided that such facility meets the criteria granting tax abatement in reinvestment zones created in the City of Elgin pursuant to the GUIDELINES AND CRITERIA adopted by the City Council.
- (c) **Creation of New Value.** The Abatement will apply only to the incremental increase in valuation, for the additional value of eligible property improvements made subsequent to and listed in the abatement agreement between the City of Elgin and the property owner and/or lessee, subject to such limitations as the City Council may require.
- (d) **New and Existing Facilities.** Abatement may be granted to new facilities and improvements to existing facilities for purposes of modernization and expansion.
- (e) **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus the office space and related fixed improvements necessary to the operation and administration of the facility.
- (f) **Ineligible Property.** The following classes of property shall be fully taxable and ineligible for abatement: Land, Vehicles, Deferred Maintenance Investments, Residential Property, Property that is associated with any activity that is Illegal under Federal, State, or Local Law, Property Owned by the State of Texas or its' Political Subdivisions, or Property Owned by an Organization which is Owned, Operated or Directed by a Political Subdivision of the State of Texas.
- (g) **Leased Facilities.** If an authorized facility eligible for tax abatement is leased, the agreement shall be executed with both the lessor and the lessee.
- (h) **Value and Term of Abatement.** Abatement shall be granted effective with the January 1 valuation date of the year immediately following the date of execution of the agreement and following the issuance of a Certificate of Occupancy unless otherwise specified in the agreement. The value and the term of abatement on new eligible property shall be determined as follows:
 - (1) If investment is at or exceeds \$125,000.00 and is less than \$1,500,000.00 and new employment is at or exceeds 5 people, then the value of the abatement shall not exceed 500% in real property tax

reductions of investment by the business in eligible property over a 7 year period. Under no circumstance shall the value of the abatement exceed 80 percent in real property tax reductions of the value of eligible property in a single year, and the duration of the abatement agreement shall not exceed 7 years or ½ the economic life of the property, whichever is less. The abatement shall not exceed the schedule of years and percentages below:

1st year 80%

2nd year 80%

3rd year 80%

4th year 70%

5th year 70%

6th year 60%

7th year 60%

- (1) If investment is at or exceeds \$1,500,000.00 and new employment is at or exceeds 15 people, then the value of the abatement shall not exceed 700% in real property tax reductions of investment by the business in eligible property over a 10 year period. Under no circumstance shall the value of the abatement exceed 80 percent in real property tax reductions of the value of eligible property in a single year, and the duration of the abatement agreement may not exceed 10 years or ½ the economic life of the property, whichever is less. The abatement shall not exceed the schedule of years and percentages below:

1st year 80%

2nd year 80%

3rd year 80%

4th year 80%

5th year 70%

6th year 70%

7th year 70%

8th year 60%

9th year 60%

10th year 50%

- (i) **Economic Qualification.** In order to be eligible to receive tax abatement the applicant must meet the following qualifications:

- (1) For a new facility it is reasonably expected to invest not less than five hundred thousand dollars (\$500,000.00) in the facility (including both eligible and ineligible property) within three years from the commencement of construction and be expected to create employment for not less than five (5) persons associated with the production of goods and services at the authorized facility on a full-time permanent basis in the City of Elgin.

For an expanded or modernized facility it is reasonably expected to invest not less than one hundred twenty five thousand dollars (\$125,000.00) in the facility (including both eligible and ineligible property) within three years from commencement of construction and be expected to create or retain employment for not less than two (2) people on a full-time permanent basis in the City of Elgin.

- (2) Two or more part-time; permanent employees totaling an average of not less than 40 hours per week may be considered as one full-time, permanent Employee.
 - (3) Companies seeking to qualify for tax abatement on the basis of job retention shall document that without the creation of a reinvestment zone and or tax abatement, the company will either reduce or cease operations.
 - (4) The project must have high visibility, image impact or be of a significantly higher level of development quality than that which currently exists within the City.
 - (5) Not be expected to solely and primarily have the effect of transferring employment from one part of the City of Elgin to another.
- (j) **Taxability.** From the execution of the abatement agreement to the end of the agreement period, taxes shall be payable as follows:
- (1) The value of ineligible property shall be fully taxable,
 - (2) The base year value of existing eligible property as determined each year shall be fully taxable, and
 - (3) The additional value of new eligible property shall be taxable.

- (k) **Conflict of Interest.** Property that is in a reinvestment zone and that is owned or leased by a member of the governing body of the City of Elgin shall be excluded from tax abatement.

Section 4: TAX ABATEMENT APPLICATION

- (a) Any present or potential property owner of taxable property in the City of Elgin may request the creation of a reinvestment zone and tax abatement by filing an application with the City Manager or his or her designee. The same requirements and procedures outlined in Section 3 applies to an applicant that requests a tax abatement, with the exception of one additional requirement outlined below in section 4(b).
- (b) Upon receipt of a completed application for the creation of a reinvestment zone for tax abatement purposes, the City Manager or his or her designee shall notify, in writing, the presiding officer of the governing body of each affected jurisdiction. Before acting upon the application, the City Council shall, through public hearing, afford the applicant, designated representatives of any affected taxing jurisdiction and the general public opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on a City Council Agenda to be posted in accordance with the Texas Property Redevelopment and Tax Abatement Act and the Texas Open Meetings Act.

Section 5: PUBLIC HEARING

- (a) Should any affected jurisdiction be able to show cause in the public hearing why the grant of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity, or the provision of services, that showing shall be reason for the City to deny any designation of the reinvestment zone, the grant of abatement, or both.
- (b) Neither a reinvestment zone nor an abatement agreement shall be authorized if it is determined that:
 - (1) There would be a substantial adverse effect on the provision of government services or tax base,
 - (2) The applicant has insufficient financial capacity,
 - (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals, or
 - (4) Planned or potential use of the property violates other codes or laws.

Section 6: AGREEMENT

- (a) The same requirements for agreements outlined in Section 3 for economic development incentives also applies to an applicant that requests a tax abatement, with the exception of one additional requirement outlined below in section 6(b).
- (b) Upon approval, the City shall formally pass a resolution and execute an agreement with the owner of the facility and/or Lessee, which shall include the following:
 - (1) Estimated value to be abated and the base year value,
 - (2) Percent of value to be abated each year.

Section 7: RECAPTURE

- (a) In the event that the facility is completed and begins producing goods and/or services, but subsequently discontinues such production for any reason excepting fire, explosion, or other casualty or accident or natural disaster for a period of one year during the abatement period, then the agreement shall terminate and so shall the abatement of taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for the calendar year shall be paid to the City within sixty (60) days from the date of termination.
- (b) Should the City determine that the company or individual is in default according to the terms and conditions of the abatement agreement, the City shall notify the company or individual, in writing, at the address stated in the agreement, and if such non-compliance is not resolved within sixty (60) days from the date of such notice, then the agreement shall be terminated.
- (c) In the event that the company or individual:
 - (1) Allows its ad valorem taxes owed the City or other affected jurisdiction to become delinquent and fails to timely and properly follow the legal procedures for their protest and or contest, or
 - (2) Violates any of the terms and conditions of the abatement agreement and fails to resolve such violations within sixty (60) days from the date of written notice of such violations, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.

Section 8: ADMINISTRATION

- (a) The Chief Appraiser of the County shall, as a normal consequence of his/her duties, annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement, including the number of new or retained employees associated with the facility. Once the value has been established, the Chief Appraiser shall notify the affected jurisdictions that levy taxes of the amount of the assessment.
- (b) The agreement shall stipulate that employees and/or designated representatives of the City will have access to the reinvestment zone during the term of the abatement agreement to inspect the facility to determine if the company or individual is in compliance with the terms and conditions of the abatement agreement. All inspections will be made only after notification of not less than twenty four (24) hours and will only be conducted in such a manner as not to unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual present and in accordance with the company's safety standards.
- (c) Upon completion of construction, the City shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the City Council and City Attorney.
- (d) All proprietary information required by the City for purposes of monitoring compliance by a company with the terms and conditions of an abatement agreement shall be considered confidential.

Section 9: ASSIGNMENT

- (a) Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the City Council subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with the City of Elgin.
- (b) The expiration date of the new contractual agreement shall not exceed the termination date of the abatement agreement with the original owner and/or lessee.
- (c) No assignment or transfer shall be approved if the parties to the existing agreement, or the new owner or new lessee are liable to the City of Elgin or any affected taxing jurisdiction for outstanding taxes or other obligations.
- (d) Approval of a transferred and assigned agreement shall not be unreasonably withheld.

Section 10: DEVIATION

A request for a deviation from these Guidelines and Criteria shall be made in written form to the City Manager or his or her designated representative. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a deviation. Approval of a request for deviation requires a vote of the governing body.

Section 11: SEVERABILITY AND LIMITATION

In the event that any section, clause, sentence, paragraph, or any part of these GUIDELINES AND CRITERIA shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of these GUIDELINES AND CRITERIA.

Section 12: CITY COUNCIL DISCRETION

Notwithstanding any provision of this Policy, this Policy and the statements and goals expressed herein, are made with the understanding that the decision of whether or not to grant any economic incentive with respect to any project is a matter solely within the discretion of the City Council, and any economic incentives which may be considered pursuant to this Policy are expressly conditioned upon and subject to the parties negotiating and entering into a mutually satisfactory definitive written agreement or agreements memorializing the mutually agreeable terms and conditions of any economic development incentive agreement. If the City Council, in its sole discretion, determines that it is in the best interests of the City to grant incentives to a particular applicant, a resolution shall be adopted approving the terms and conditions of an economic development incentive agreement with the applicant. Nothing contained herein shall constitute or be construed to constitute a commitment or approval, expressed or implied, tacit or otherwise, on the part of the City to grant economic development incentives for any project or development within the City.

**CITY OF ELGIN
APPLICATION FOR ECONOMIC INCENTIVES AND TAX
ABATEMENT GENERAL INSTRUCTIONS**

Filing Deadline

Applications are accepted on a continuous basis.

An original and two copies of the application and all attachments must be submitted to:

City Manager
City of Elgin
310 N Main
Elgin, Texas 78621

Applicant Information

If the applicant company is incorporated under one name and doing business under another, please provide both.

The contact person for purposes of this application shall be someone authorized to answer questions and provide additional information if necessary, related to the City Council's consideration of the application.

Primary activity is the good(s) and or service(s) currently or proposed to be produced at the facility for which the applicant has applied for an economic incentive or tax abatement.

Number of employees (full-time or part-time) refers to current operations within the City of Elgin.

Project Information

If the applicant is seeking to qualify for an economic incentive or tax abatement for any type of regional facility, the applicant must provide documentation showing that a majority of the revenues associated with the goods or services produced at the facility come from sources outside of Bastrop or Travis County. For existing businesses, adequate documentation includes invoices or receipts for the previous 12-month period. For new enterprises, acceptable documentation includes a detailed marketing and sales plan.

Estimated total value of improvements is the value of buildings, structures, fixed equipment, inventory, supplies and other eligible property that would be subject to the economic incentive or tax abatement.

To receive credit for total jobs retained for purposes of satisfying the minimum requirements provided in the "Guidelines and Criteria", the applicant must provide documentation that the business will reduce or cease operations in the City without the proposed modernization or expansion. Documentation (e.g., long-range corporate plan) must indicate the extent to which operations will be reduced and the timeframe for implementing the reduction.

Other Abatement Agreement Applications

If the applicant has applied to any other taxing jurisdiction, for an economic incentive or tax abatement associated with the project, please provide the requested information.

Deviation

If approval of this application will require a deviation from the "Guidelines and Criteria" referenced above, the applicant must provide a complete description of the circumstances that necessitate a deviation and the basis on which such deviation should be granted.

Assurances

Must be signed by an authorized officer of the corporation or business.

The date of signature is not considered the date of application for purposes of eligibility. The date of application is the date the application is received at City Hall.

**CITY OF ELGIN
APPLICATION FOR ECONOMIC INCENTIVES AND TAX
ABATEMENT**

Filing Instructions:

This application must be filed prior to the commencement of construction or the installation of equipment associated with the project for which the incentive or tax reduction is being sought. This filing acknowledges that the applicant has read and understands the "Guidelines and Criteria", approved by the City Council. Furthermore, the applicant agrees to comply with all requirements stated in the "Guidelines and Criteria".

This application will become a part of any agreement or contract executed between the applicant and the City of Elgin, and any known or found false representations therein will be grounds for voiding such agreement or contract.

An original and two copies of this application and attachments should be submitted to:

City Manager
City of Elgin
310 N Main
Elgin, Texas 7862

Information:

Company Name: _____
Address: _____

Phone: _____
Contact Person: _____
Owner Name: _____
Address: _____

Phone Number: _____

Type of Business:

(Circle One)

Partnership
Corporation
Sole Proprietorship

Primary Activity:

(Goods/Service Produced)

Annual Sales at Time of Application: _____

Number of Permanent, Full-time Employees at Time of Application: _____

Number of Permanent, Part-time Employees at Time of Application: _____

Project Information:

(Circle One)

- Manufacturing
- Research
- Regional Service*
- Other Basic Industry
- Agriculture/Aquaculture
- Regional Entertainment or Tourism*
- Regional Distribution*

*Note: Applicant must provide evidence that a majority of the revenues generated by this facility are from sources outside of Bastrop/Travis County.

Type of Improvements:

(Circle One)

- New Facility
- Modernization
- Expansion

Is the Property Owner-Occupied or Leased: _____

Current or Possible Tenants: _____

Project Location: (Address and Legal Description)

(Please, provide a plat, map or survey showing the location of the property and the project, all streets, land uses, and zoning within 500 feet of the site.)

Estimated Total Value of Improvements: _____

Anticipated Date Construction will begin: _____

Anticipated Date Construction will be completed: _____

Anticipated Peak Construction Work Force: _____

Total New Permanent Employment: _____

Total Jobs Retained: (if modernization or expansion) _____

*Note Applicant must provide evidence that the company would reduce or cease operations within the City of Elgin, if not for the proposed expansion or modernization.

Public Service Requirements and School District Impact:

Volume of Treated Water Required (Gallons per Day) _____

Volume of Effluent to be Treated (Gallons per Day) _____

Number of Families to be Transferred to New facility _____

Estimated Number of Children of School Age (K-12)
In Transferred Families _____

Other Agreement Applications:

Has the applicant made application for economic incentives or tax abatement associated with this project to any other taxing jurisdiction or county? (Circle One)

Yes

No

If yes, please provide the following information on each pending application:

Name of Jurisdiction

Date of Public Hearings (if required)

Action Taken by Jurisdiction (if any)

Date of Application

Variance:

Does approval of this application require a variance from the "Guidelines and Criteria"?
(Circle One)

Yes

No

If yes, applicant must provide attachments with a complete description of the circumstances explaining why the applicant should be granted a variance.

All Applications Must Contain The Following Attachments:

The City Council will not review an application until all the requested information has been provided.

1. A written description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken.
2. A description (including estimated value) of each improvement in kind, number, and location that will be part of the project.

3. Identification of the infrastructure that will be required to serve the proposed project and the estimated cost of the infrastructure.
4. A time schedule for undertaking and completing the planned improvements.
5. Financial information (annual reports or tax returns) showing the applicant is financially stable and able to see the project through to completion.
6. Identification of economic development incentives or tax abatement requested.

Assurances:

I do hereby certify that;

The information provided above is, to the best of my knowledge, complete and accurate.

I have received and read a copy of the "Guidelines and Criteria", and I understand the conditions and terms under which an incentive agreement or tax reduction with the City of Elgin may be executed.

Employees and or designated representatives of the City shall have access to the facility during the period of the incentive agreement or tax reduction to determine if the applicant is in compliance with the terms and conditions of the incentive agreement or tax abatement.

I understand that failure to comply with the terms and conditions of the incentive agreement may result in the recapture by the City of any and all revenues reimbursed by the City, taxes reduced, fees waived, or grants and loans received by virtue of the agreement.

I understand that participation in an incentive agreement or tax reduction does not remove any obligation to satisfy all codes and ordinances issued by the City or any other affected taxing jurisdiction that may be in effect and applicable at the time this project is implemented.

Signature of Authorized Officer

Name of Authorized Officer (Type or Print)

Title (Type or Print)

Date