

RESOLUTION NO. 14-32

A RESOLUTION OF THE TOWN OF NORTHLAKE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INCENTIVES POLICY TO PROMOTE ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE TOWN; ESTABLISHING GUIDELINES AND CRITERIA FOR APPROVAL OF TAX ABATEMENTS AND OTHER INCENTIVES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Texas Development Corporation Act (“the Act”), now codified in Chapters 501-505 of the Texas Local Government Code, authorizes communities to collect Type A and / or Type B economic development sales and use taxes; and

WHEREAS the residents of the Town of Northlake (“Town”) on November 7, 1989 passed an election approving the collection of sales and use tax for the benefit of a Type A Economic Development Corporation; and

WHEREAS the residents of the Town on February 2, 2002 passed an election approving the collection of sales and use tax for the benefit of a Type B Community Development Corporation; and

WHEREAS, the Town Council of the Town on February 15, 1990 passed Resolution 90A establishing a Type A Economic Development Corporation; and

WHEREAS, the Town Council of the Town on February 14, 2002 passed Resolution 168 establishing a Type B Community Development Corporation; and

WHEREAS, the Town Council of the Town on June 25, 2013 approved amended Bylaws for the Town’s Type A Economic Development Corporation and Type B Community Development Corporation; and

WHEREAS, Chapter 380 of the Texas Local Government Code authorizes municipalities to establish and provide for the administration of programs that promote economic development and stimulate business and commercial activity in the Town; and

WHEREAS, the Town hereby elects to grant tax abatements pursuant to the guidelines and criteria established in the Policy; and

WHEREAS, the Town desires to attract high-quality long-term investment and the creation of new jobs and to stimulate business and commercial activity in the Town; and

WHEREAS, the Town recognizes that it may be necessary to provide economic development incentives utilizing public resources in addition to the Type A and Type B sales taxes; and

WHEREAS, the Town recognizes the importance of retaining existing businesses, attracting new businesses, and providing for the redevelopment of sub-standard properties; and

WHEREAS, the Town desires to protect and enhance the Town's fiscal ability to provide high-quality municipal services for the residents and businesses in the Town; and

WHEREAS, the Town's Type A Economic Development Corporation on November 20, 2014 and the Town's Type B Community Development Corporation on November 20, 2014 considered and recommended approval of the attached Incentives Policy ("Policy") to the Town Council; and

WHEREAS, upon full review and consideration of the Policy attached as Exhibit A and all matters attendant and related thereto, the Town Council is of the opinion that the Policy will assist in implementing programs whereby economic development will be promoted and business and commercial activity will be stimulated in the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NORTHLAKE, TEXAS, THAT:

SECTION 1.

The Town Council finds that the guidelines and criteria of the Policy, attached hereto as Exhibit "A", will promote economic development and stimulate business and commercial activity in the Town.

SECTION 2.

The Town Council hereby adopts the Policy, attached hereto as Exhibit "A", authorizing the Town to participate in tax abatement and other incentives and take other specified actions, in accordance with the guidelines and criteria outlined in the Policy.

SECTION 3.

The guidelines and criteria of the Policy, having been reviewed by the Town Council of Northlake and found to be acceptable and in the best interest of the Town and its citizens and businesses, are hereby approved.

SECTION 4.

This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this the 11th day of December, 2014.



Shirley Rogers
Shirley Rogers, Town Secretary

Peter Dewing
Peter Dewing, Mayor

EXHIBIT A
Incentives Policy

Northlake, Texas

Incentives Policy

WHEREAS, the Town's Type A Economic Development Corporation on November 20, 2014 and the Town's Type B Community Development Corporation on November 20, 2014 considered and recommended approval of this Incentives Policy ("Policy") to the Town Council; and

WHEREAS, upon full review and consideration of this Policy, the Town Council is of the opinion that this Policy will assist in implementing programs whereby economic development will be promoted and business and commercial activity will be stimulated in the Town.

BE IT KNOWN, that the Town Council on December 11, 2014 approved Resolution 14-32 adopting the following guidelines and criteria as the Town of Northlake's Incentive Policy.

1. INTRODUCTION / GOALS

It is the intent of this Policy to provide guidelines and criteria, requirements, and procedures to evaluate and approve any Incentives deemed necessary by the Town for the furtherance of its economic development and community goals. This Policy shall include provisions for Tax Abatement as well as use of Type A or Type B economic development sales tax funds, and any other resources as approved by the Town Council. Incentives may be considered for both new facilities and for the Expansion or Modernization of existing Facilities and structures. Nothing herein shall imply or suggest that the Town is under any obligation to provide any Incentive to any Applicant. The Council retains the right to evaluate applications and grant Incentives, if any, as deemed appropriate on a case-by-case basis without the necessity of amending any contrary provisions of this Policy. Following are the goals of this Policy.

- A. When in the best interests of the Town, provide Incentives to existing businesses that will enhance the commercial viability and sustainability of existing commercial properties in the Town; and
- B. When in the best interests of the Town, provide Incentives to attract desired businesses or developers to invest in the Town; and
- C. Increase the non-residential ad-valorem tax and / or sales and use tax revenue base for the Town; and
- D. Ensure that all policies, procedures and any resulting Performance Agreements related to the provision of Incentives to stimulate economic development shall comply with all applicable state statutes.

2. DEFINITIONS

The following definitions shall apply to the terms used in this Policy. These Definitions shall apply to all subsequent Performance Agreements unless amended by that Performance Agreement.

380 Agreement: Shall mean an agreement to provide incentives as authorized by Chapter 380 of the Local Government Code. It may also be referenced herein as a Performance Agreement.

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

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

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

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

Board: Shall mean the Board of the Type A or Type B Development Corporation of the Town.

Business Personal Property: Shall be as defined by the Denton County Appraisal District.

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

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

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

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

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

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

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

Facility: Shall mean the site, building(s) and improvements.

Freeport Exemption: If adopted by the Town, the Freeport Exemption from ad valorem taxation applies only if qualifying goods, wares, merchandise, ores, and certain aircraft and aircraft parts have been detained in the state for 175 days or less for the purpose of assembly, storage, manufacturing, processing, or fabricating.

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

Impact Fees: Fees adopted by the Town in accordance with Chapter 395 of the Local Government Code.

Incentives: Shall be as defined in Section 7 herein.

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

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

Performance Agreement: A written contract summarizing the performance requirements of a business or developer and the Incentives to be provided by the Town upon fulfillment of those performance requirements.

Policy: Shall mean this Incentives Policy.

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

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

Project Classification: Shall be as defined in Section 6 herein.

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

Property: Shall mean the physical lot and / or building to which Incentives are being given.

Public Works Improvements: Shall mean improvements that upon completion and acceptance shall be owned by the Town. (e.g. water, sewer, streets, drainage)

Real Property: Shall be as defined by the Denton County Appraisal District.

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

Staff: The Town Administrator or their designee.

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

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

Town: The Town of Northlake, Texas.

Town Council: The Town Council of the Town.

3. GENERAL ELIGIBILITY

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

- A. Properties: Only properties meeting the following requirements shall be eligible to receive Incentives outlined by this Policy:
- i. Within the Town: The property must be located within the Town's municipal boundaries.
 - ii. Zoning: The property must be adequately zoned for proposed uses.
 - iii. Taxes: The property shall be in good standing as it relates to taxes due to the Town.
 - iv. Liens: The property shall be in good standing as it relates to any liens held by the Town.
 - v. Ownership: Property owners must provide proof of ownership.
 - vi. Code Violations: Property must not have any outstanding code violations with the Town.
- B. Businesses: Only businesses meeting the following requirements shall be eligible to receive Incentives outlined by this Policy:
- i. Taxes: The business shall be in good standing as it relates to taxes due to the Town.
 - ii. Property Owner Approval: Businesses, if not the owner of the property to be occupied, must provide a copy of their lease agreement and support of the Incentives Application from the Property Owner prior to Town approval of the Application.
 - iii. Length of Operations: Existing businesses must have maintained operations in the Town for five (5) years consecutively in order to receive Incentives.

- C. Statutory Limitations: It is the intent of the Town to comply with all statutory limitations on the use of any Type A or Type B sales and use tax funds for Projects as authorized by the Act.

4. **PRIORITIES**

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

- A. Preferred Areas: The following areas of the Town are areas of priority for implementation of this Policy.
- i. I-35W at S.H. 114: This area with highway access and available water and sewer infrastructure is most ready for immediate development with the least impact on the Town for providing adequate services.
 - ii. Comprehensive Plan – Industrial: Areas designated as “Industrial” on the Town’s Comprehensive Plan.
 - iii. Comprehensive Plan – Mixed-use: Areas along I-35W or in proximity to Texas Motor Speedway and are designated as “Mixed-use” on the Town’s Comprehensive Plan.
 - iv. Ineligible Areas: Areas designated as “Rural Residential” on the Town’s Comprehensive Plan.
- B. Preferred Businesses: The following types of businesses are a priority for implementation of this Policy.
- i. Industrial: Industrial or manufacturing that has minimal impacts on the environment.
 - ii. Logistics / Distribution: Distribution centers or logistics hubs.
 - iii. Retail: Retail development or businesses that provide a significant sales tax contribution to the Town.
 - iv. Entertainment: Entertainment venues of a unique nature that serve the Town and the region.
 - v. Office: Professional corporate or service offices.
 - vi. Ineligible Businesses: Any businesses that do not reflect a positive image for the Town.

5. **INCENTIVES**

Following are Incentives that the Town, on a case-by-case basis, could consider granting for specific Projects depending on the merits of the Project. Incentives, including Tax Abatement, are available to new Facilities and structures and the Expansion and Modernization of existing Facilities and structures. *This shall include the redevelopment of existing properties.* Eligibility for each type of Incentive shall be as shown in Section 7 herein.

- A. Financial – Ad Valorem Taxes: The Town may consider granting the following Incentives relative to Ad Valorem Taxes.
- i. Real Property Tax: The Town may consider abating the taxes on Real Property by approval of a Tax Abatement Agreement or by approval of a 380 Agreement rebating Real Property taxes paid to the Town.
 - ii. Business Personal Property Tax: The Town may consider abating the taxes on Business Personal Property by approval of a Tax Abatement Agreement or by approval of a 380 Agreement granting back Business Personal Property taxes paid to the Town.

- iii. Inventory Tax: The Town grants relief of inventory taxes through their prior adoption of the Freeport Exemption. Inventory that is not eligible for Freeport Exemption is also not eligible for Incentives through this Policy.
 - iv. Tax Stabilization / Incremental Increase: In a situation where an existing Facility may be Expanded or Modernized, the Town may consider stabilizing the ad valorem taxes collected as of the date of completion and / or an incremental yearly increase to market rates. This shall be accomplished by granting back the increase in taxes paid to the Town.
- B. Financial – Sales Tax Grants / Reimbursements: Through approval of a 380 Agreement, the Town may provide Grants of all or a portion of the following sales and use taxes. Where the Project is a retail development, for the purposes of evaluating and granting incentives in accordance with this Policy, sales and use taxes shall be measured net of any business relocations occurring within the Town. i.e. if a retail business is currently operating in the Town, and relocates to the new development, it's sales taxes shall be excluded from the calculation of new sales taxes generated.
- i. Sales Tax – Development Corporation: The sales tax going to the Town's Type A and Type B Economic Development Sales Tax funds.
 - ii. Alcohol Sales Tax: The sales taxes collected by the Town from the sale of alcohol in the Town.
 - iii. Construction Materials Sales Tax: As permitted by Chapter 3 of Title 34 Texas Administrative Code.
- C. Financial - Fee Reductions / Credits: The Town may consider the reduction or credit of all or a portion of the following fees. This shall not include any charges by third-parties assisting the Town with implementation of services provided by the fees unless so provided in an approved Performance Agreement.
- i. Impact Fee - Water: Any water Impact Fee charged by the Town. This shall not include the "pass-through" Impact Fees owed to any other Agency.
 - ii. Impact Fee - Wastewater: Any wastewater (aka sanitary sewer) Impact Fee charged by the Town. This shall not include the "pass-through" Impact Fees owed to any other Agency.
 - iii. Impact Fee - Roadway: Any roadway Impact Fee charged by the Town.
 - iv. Road Participation Fee: Any roadway participation fee charged by the Town.
 - v. Drainage Improvement Fee: Any fee charged for the improvement of drainage facilities in the Town.
 - vi. Building Permit Fee: Any fee related to the review of non-Public Works construction plans and building plans required for the issuance of a building permit.
 - vii. Plan Review Fee: Any fee related to the review and administrative processing of construction plans for Public Works Improvements.
 - viii. Inspection Fee: Any fee related to the inspection of Public Works Improvements.
- D. Financial - Misc.: The Town may consider the following miscellaneous financial Incentives.
- i. Equipment Purchase: Funds provided to assist with or provide for the purchase of equipment that increases production for the business.
 - ii. Forgivable Loan: An agreement by the Town to provide a loan whose repayment may be forgiven under particular circumstances.

- E. Sales, Lease or Exchange of Land or Buildings: The Town recognizes that the sale and conveyance, lease, or exchange of certain property owned by the Town may meet the objectives identified in this Policy. In accordance with the provisions of Section 272.001 of the Local Government Code, the Town may consider the sale, lease or exchange of land without the necessity of accepting written bids pursuant to a published notice and at or below market value to further the objectives identified herein.
 - i. Build-to-Suit / Leaseback: An agreement where the Town builds a building or facility to suit the needs of the Applicant in exchange for a commitment from the applicant to lease the facility from the Town.
 - ii. Free / Reduced-Cost Land: Any provision where the Town provides free or reduced-cost lands to the Applicant.
 - iii. Free / Reduced-Cost Building: Any provision where the Town provides a free or reduced-cost building to the Applicant.
 - iv. Land Lease: Any provision where the Town leases rights to Town-owned land to the Applicant to allow construction of their Facility.
- F. Employment-Related: The Town may consider the following employment-related Incentives.
 - i. Relocation Assistance: Any provision where the Town provides assistance to new employees relocating to residency within the Town.
 - ii. Cash for Jobs: Any provision where the Town provides for one-time payments to the Applicant for each new job of a certain classification established at a new or existing Facility in the Town.
 - iii. Employee Recruitment Assistance: Any provision where the Town provides assistance with the recruiting of new employees to a new or existing facility in the Town.
 - iv. Employee Training Assistance: Any provision where the Town provides assistance in the training of new employees employed at a new or existing facility in the Town.
- G. Infrastructure Assistance: The Town may consider the following infrastructure assistance Incentives.
 - i. Water Line Extensions: Participation in all or a portion of the costs of extending water distribution lines to the Facility.
 - ii. Sewer Line Extensions: Participation in all or a portion of the costs of extending sanitary sewer lines to the Facility.
 - iii. Roadway Improvements: Participation in all or a portion of the costs of roadway improvements serving the Facility.
 - iv. Storm Drainage Improvements: Participation in all or a portion of the costs of storm drainage improvements at or downstream of the Facility.
 - v. Franchise Utility Extensions: Participation in all or a portion of the costs of extending franchise utility services to the Facility.
- H. Development Cost Participation: The Town may consider participation in the following development cost Incentives.
 - i. Demolition: Participation in all or a portion of the costs of demolishing existing structures on a property.

- ii. Environmental Mitigation: Participation in all or a portion of the costs of mitigating environmental issues on a property in accordance with Sections 504.304 and 505.305 of the Local Government Code.
- I. Process Related: The Town may consider the following process-related Incentives. In all instances, any accelerated or unique process shall meet all statutory requirements.
 - i. Fast-track Zoning: Provisions allowing an accelerated consideration of zoning entitlements for the Project.
 - ii. Fast-track Permitting: Provisions allowing an accelerated review of building and construction plans for the Project.
 - iii. Dedicated Inspections: Provisions allowing for Town inspector(s) to be dedicated solely or primarily to the Project either at critical times or throughout construction of the Project. This may or may not include a requirement for on-site office space to accommodate the inspector.
 - a. Exemptions: This shall not include the costs of “call-back” inspections, weekend inspections, or holiday inspections.
- J. Economic Development District Establishment: In instances where the Project is of a significant scope and scale, the Town may consider the establishment of unique economic development districts.
- K. Hotel Occupancy Tax: The Town may consider the use of Hotel Occupancy Tax in accordance with the provisions of Chapter 321 of the Texas Tax Code.
- L. Support for State Incentives: The Town may consider providing support for the Project in the application and processing of State of Texas incentives.

6. **PROJECT CLASSIFICATIONS**

The following Project Classifications shall identify the minimum performance requirements for each project classification for the purposes of determining the eligibility of Incentives for different types of Projects. These requirements are new construction, revenues or employees attributable to the Project.

Project Classification	Min. New Construction Cost	Min. New FTE Employees	Min. New Taxable Sales ¹	Notes
Corporate	\$5,000,000	50	-	• Significant office uses, e.g. Corporate HQ or regional HQ
Industrial	\$5,000,000	50	-	• Owner occupied, industrial / logistics business
Retail	-	-	\$1,000,000	•
Development	\$5,000,000	-	\$5,000,000	• New development that does not include retail

¹Generated annually

7. PROJECT ELIGIBILITY MATRIX

The following Project Eligibility Matrix shall provide a framework for identifying the potential Incentives that are eligible to various classifications of Projects as identified above. Term and amount of Incentives shall be determined on a case-by-case basis.

Potential Incentive	Project Classification			
	Corporate	Industrial	Retail	Development
Tax Abatement	X	X	-	-
Other AV Tax Relief	X	X	-	-
Sales Tax Grants	-	-	X	X
Constr. Sales Tax Grants	X	X	X	X
Fee Reductions / Credits	X	X	X	X
Misc. Financial	X	X	-	-
Land / Building Related	-	X	X	-
Employment Related	X	X	-	-
Infrastructure Assistance	X	X	X	X
Dev. Costs	X	X	X	X
Process Related	X	X	-	X
E.D. Districts	-	-	X	X
HOT	-	-	-	X
State Assistance	X	X	X	X

8. ADMINISTRATIVE PROCEDURES

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

- A. Pre-Submittal: All Applicants are encouraged to meet with Staff prior to preparation of an Application. Contact the following to set up a meeting.

Department of Economic Development
 1400 FM 407, Northlake, TX 76247
 PH: (940) 648-3290
 EM: nreddin@town.northlake.tx.us

- B. Application: The submittal of an Application is required prior to any evaluation of the request for Incentives. The Application shall be on a form prepared by Staff and available on the Town’s website or in the office of Economic Development.

- i. Required Information: The following shall be included with the Application.
 - a. Legal description of the property.
 - b. Proof of ownership of the property.
 - c. Drawings, renderings, plans of the proposed improvements.
 - d. Current ad valorem tax appraised value estimates by the applicable appraisal district showing appraised values for three similar type and size projects within the County.
 - e. If Applicant is not the property owner:
 - 1. Written approval of the Incentive Application from the owner
 - 2. Copy of the signed lease agreement

- ii. Required Performance Criteria: Provide the following information over time from establishment to full operation.
 - a. Improvements: List the kind, number, use, square footage and location of all the proposed improvements on the property.
 - b. Jobs: Number, type, quality and wage levels of jobs created.
 - c. Payroll: As defined in Section 2.
 - d. Benefits: Benefits provided to employees.
 - e. Capital Investment: Total capital investment including acquisitions, site improvements, building costs and equipment.
 - f. Taxable Sales: The amount of taxable sales that is generated at the Facility.
 - g. Infrastructure: The extent that any infrastructure component of the Town is enhanced or expanded.
 - iii. Requested Incentives: The Applicant shall itemize the Incentives they are requesting from the Town. These are to be prioritized by order of preference by the Applicant.
 - iv. Amendments: Staff may amend the form of the Application as needed to more efficiently evaluate the merits of requested Incentives.
- C. Review & Evaluation: Following are review criteria and steps to review and evaluate the application.
- i. Review Criteria:
 - a. Completeness of Application: Completeness of the Application to include all required documentation.
 - b. Priorities: Does the Application include a targeted business classification or is it located in a targeted area?
 - c. General Eligibility: Does the Project meet the General Eligibility requirements?
 - d. Impacts: An estimation of the positive and negative impacts that the Project might have.
 - 1. Cannibalization of Existing Businesses: To what extent does the Project cannibalize the profitability of an existing business?
 - 2. Private Investment Catalyst: To what extent does the Project act as a catalyst for future private investment?
 - 3. Town Services: To what extent does the Project have an impact on the Services or infrastructure of the Town?
 - ii. Staff Evaluation and Recommendation: The coordinating Staff member shall convene a team of the appropriate Staff members to evaluate the Application. Upon review, Staff shall prepare a recommendation to forward to the Board.
 - a. Site Visit: Prior to formal evaluation of the Application, the Applicant shall allow Staff the opportunity to visit the property to verify its status prior to any Incentives.
 - iii. Consulting Services: To the extent that a consulting service is deemed necessary by the Town to aid in their evaluation (e.g. financial impacts / cost-benefit analysis, infrastructure impacts or capabilities), the Town may require that the Applicant participate up front in the cost of obtaining these services.

- D. Approvals: The following shall be required for approval of Incentives.
- i. Board Recommendation: Where funds to be used for any Incentive herein are subject to authorization of a Board, the Board shall consider the request for Incentives and make a recommendation to the Town Council.
 - ii. Town Council: The Council shall make the final decision regarding the merits of the Application and the appropriate Incentives to be provided, if any.
- E. Performance Agreement: Upon mutual agreement on the Project's performance requirements and the Incentives to be provided by the Town, a Performance Agreement shall be prepared to the satisfaction of both parties and approved by the Council.
- i. Approval Process: All Performance Agreements, including any Tax Abatement Agreement, shall follow and comply with all statutory requirements for notice, hearings and readings where applicable.
 - ii. Tax Abatement Minimum Requirements: Any Performance Agreement including Tax Abatement shall include the following at a minimum:
 - a. Improvements: List the kind, number and location of all the proposed improvements on the Property.
 - b. Access: Provide access to and authorize inspection of the property by Town employees to ensure that the improvements or repairs are made according to the specifications and conditions in the agreement.
 - c. Uses: Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.
 - d. Recapture Provisions: Provide for the recapture 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.
 - e. Term: Describe the term of the agreement.
 - f. Certification: Require the owner of the Property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement.
 - g. Cancellation / Modification: Provide that the Town may cancel or modify the agreement if the property owner fails to comply with the agreement.
 - iii. Compliance Reporting: All Performance Agreements shall include requirements for reporting compliance with the provisions of the agreement prior to disbursement of incentive funds.

9. APPLICANT / OWNER CERTIFICATIONS

- A. Application Accuracy: The Applicant shall certify that the information provided in this Application, and all that may have been affixed hereto, is true and correct, and that the Town may rely on all of the information contained herein, and all that may have been affixed hereto, as being true and correct.
- B. Discretionary Rights: The Applicant shall acknowledge that the Town has the absolute right of discretion in deciding whether or not to approve any Incentive relative to this Application, whether or not such discretion is deemed arbitrary or without basis in fact.

10. GENERAL PROVISIONS

- A. Flexibility: The terms and conditions of this Policy are to be considered guidelines for Town Council during their deliberation and evaluation. The Town reserves the right to modify the terms and conditions herein at any time, including for any pending application.
- B. Section or Other Headings: Section or other headings contained in this Policy are for reference purposes only and shall not affect in any way the meaning or interpretation of this Policy.
- C. Severability: In the event that any provision of this Policy is illegal, invalid, or unenforceable under present or future laws, the remainder of this Policy shall not be affected thereby.

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