



City of Lawrence

DATE APPROVED:

March 24th, 2009

Updated ~~May 18th, 2010~~ 2016

**City of Lawrence
Economic Development
Goals, Process and
Procedures**

1-2101 INTRODUCTION

The purpose of this document is to establish the official policy and procedures of the City for the granting of economic development incentives, including cash incentives and exclusive infrastructure assistance associated with projects within the City of Lawrence.

1-2102 GENERAL OBJECTIVE

In Horizons 2020, the City identifies three goals for economic development: job growth in excess of population growth; increasing the share of the tax base coming from non-residential growth; and increasing career opportunities by attracting high-skilled jobs in expanding industries.

Various economic incentives are available under Kansas law to help municipalities achieve their public objectives. This ordinance establishes the policy, procedures and requirements to govern the fair, effective and judicious use of these incentives by the City in order to help meet its economic development goals.

Because of Lawrence's assets and the desire of area residents to plan for the future and retain a community that is different from other growing suburban areas, economic incentives may not be offered to every firm that is eligible under state statutes. Instead, incentives will be targeted toward businesses meeting the objectives defined below.

1-2103 ECONOMIC DEVELOPMENT OBJECTIVES

The City works in cooperation with Douglas County and the Lawrence Chamber of Commerce to achieve the general objectives outlined in the section above. This partnership enables the community to maximize its resources and to develop a consensus regarding the kind of economic development that best advances the interests of the entire community.

All of the partners in this effort share a commitment to:

- encourage existing industry to expand,
- assist new business start-ups,
- recruit new companies from out-of-state and internationally,
- encourage high technology and research based-businesses,
- encourage training and development of Lawrence area employees, and
- encourage the location and retention of businesses which are good "corporate citizens" that will add to the quality of life in Lawrence through their leadership and support of local civic and philanthropic organizations.

While it is the new companies from out-of-state that typically generate the most publicity, it is the policy of the City, County, and the Chamber to place a high priority on the retention and expansion of existing businesses.

The City's role in this economic development partnership involves:

- providing the land, zoning and infrastructure that are required to create new jobs and new investment,
- providing policies, processes and procedures for clear standards and timely reviews of applications, and
- providing the personal assistance and in some cases the incentives necessary to achieve the objectives set forth in this document.

All partners believe that Lawrence and Douglas County should be selective as to the kinds of businesses that are recruited and assisted. Horizons 2020 specifies that businesses within the following industries should particularly be a focus of economic development efforts:

- Life Sciences/Research,
- Information Technology,
- Aviation and Aerospace,
- Value-added Agriculture, and
- Light Manufacturing and Distribution.

Affordable Housing:

In support of the City Commission goal to increase affordable housing within the community, projects having four (4) or more residential units seeking public assistance shall only be considered if a portion of those units are set aside as affordable housing.

The units set aside for affordable housing are subject to income and rent parameters defined annually by the U.S. Department of Housing and Urban Development (HUD) for Douglas County, Kansas. Projects shall reserve and maintain the number of dwelling units designated as affordable housing units for a period of not less than fifteen (15) years of any Certificate of Occupancy and must have a suitable management program in place to ensure affordable housing eligibility requirements are met for those units.

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1-2104 ECONOMIC DEVELOPMENT INCENTIVES

When appropriate, the City may utilize incentives in order to achieve its economic development goals. One or more incentives may be utilized, depending on the application. These include, but are not necessarily limited to, the following:

- **Loans/Grants:** Provide capital to existing and new businesses for projects related to new growth and expansion, providing job training, assisting with business relocation expenses, and other types of assistance which further the community's economic development goals.
- **Infrastructure:** Provide infrastructure improvements related to needs of businesses or to assist in making property useable and available for businesses or other designated economic development activities (i.e. infrastructure for industrial property, etc.)

- **Property Tax Abatement:** The City may utilize property tax abatements to spur investments.
- **Tax Increment Financing:** The City may judiciously utilize Tax Increment Financing (TIF) for the purpose of encouraging projects with an emphasis on redevelopment activities. The City has a separate policy regarding tax increment financing.
- **Transportation Development Districts:** The City may utilize transportation development districts to encourage quality transportation-related infrastructure. The City has a separate policy regarding transportation development districts.

1-2105 APPLICATION PROCEDURES

1. Applicant picks up a blank Application form at City Hall (City Manager's Office) or the Application is downloaded from the Internet. Applicant's business/project must be located in the City of Lawrence or near the City of Lawrence such that there will be direct economic benefit to the City.
2. An Application must include a project plan that:
 - (A) summarizes the project,
 - (B) demonstrates the financial and professional capability to complete the project,
 - (C) proposes a timeline for project completion, and
 - (D) provides a summary of project benefits to and assistance requested from the City.
3. When the Application (with an attached Project Plan) is completed, it will be submitted to City Hall (City Manager's Office) along with any application fees that may be required for the particular incentive sought. Applicant may seek technical assistance in ensuring the application is complete from City Staff, the Chamber of Commerce, the Small Business Development Center, or others.
4. City Staff will facilitate the review of all applications before they are considered by the City Commission. In preparing such review, City Staff will utilize the City's resources or other professional assistance as deemed appropriate by the City Manager.

In cases in which sensitive financial information needs to be shared to evaluate an application, the City will utilize a third party to review such information and write a report that summarizes any major concerns with the ability of the applicant to complete the project. The third party will also make recommendations regarding appropriate provisions the City may consider to secure its investment.

The application review will be summarized in writing and presented no later than the time the application is presented to the City Commission. This review may include but not be limited to the following:

- (A) Verification that the applicant is eligible for the incentive sought under the Kansas Constitution, City or County ordinances or any other applicable laws,
- (B) Phone calls to listed references for banking, other financing, major suppliers, and major customers,
- (C) Oral verification of major indebtedness with lender/mortgage holders,
- (D) Review of financial documents for reasonableness,
- (E) cursory reconciliation of future year cash flow projections with current cash status, requested monies, etc.,
- (F) Correlation with other requests from the City (subsidized land costs, property tax abatements, City industrial revenue bonds, utility improvements),
- (G) Adequacy of performance provisions,
- (H) Any significant positive or negative aspects of the application, and
- (I) Benefit/cost analysis (as prepared by City staff).

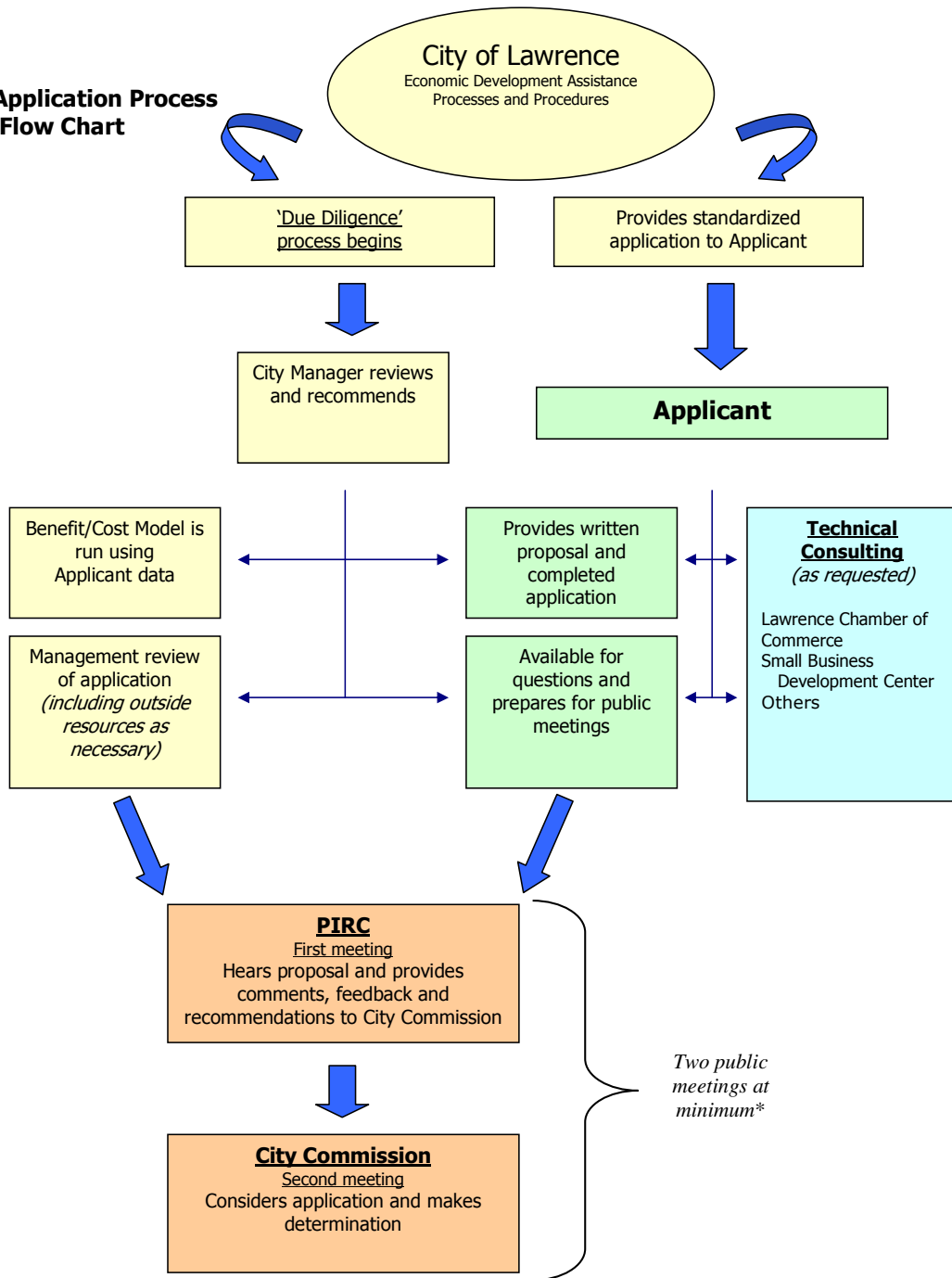
Results of this review will be shared with the applicant as soon as possible to ensure accuracy of the application before its official presentation to the City Commission. This review will not be construed as a "screening" procedure. Each applicant has the privilege to present its application intact and unchanged to the City Commission.

5. The City Manager will provide the information concerning the Application to the members of the City Commission for study. Copies will also be provided to professional staff.
6. The City Manager will determine when the Application will be considered for public hearings with a Review Committee (as established in Section 1-2108, below) and the City Commission.
7. Upon completion of management review, the Review Committee shall conduct a public meeting to hear the proposal from the applicant, receive comments from the public, and seek additional information as necessary. Comments, recommendations, and additional information from the applicant shall be forwarded to the City Commission for consideration along with the original application.
8. The City Commission will then consider the application during a public meeting. At this meeting, the Commission may consider the application and make a

determination. Additional City Commission meetings may be necessary. The City Commission retains the prerogative of rejecting any Application.

9. If the City Commission has approved an Application, it is then turned over to the City Manager for implementation and administration.

Application Process Flow Chart



* Additional City Commission meetings may be necessary

1-2106 BENEFIT/COST MODEL

The City, in determining whether certain incentives should be granted; shall conduct a benefit/cost analysis which will consider various factors including, but not limited to, the following:

- the increase in appraised valuation of the property,
- the sales and income tax revenue which may result,
- the number of new jobs, the earnings and the benefits that will be provided;
- additional jobs created through secondary or “multiplier” effects, as well as the associated tax revenues from these jobs and residents,
- the capital expenditures that local government will need to make to expand public services, for example parks and police stations, to both the company and new residents,
- the operating expenditures that local government will need to make on a regular basis for public services, for example fire protection and street maintenance, to both the company and new residents,
- the expenditures by the local school district to provide the facilities and to educate the students of the new residents associated with the company,
- any expenditures by the State of Kansas, such as per-student funding in local school systems, created by the firm and new residents, and
- other public expenditures associated with attracting the new company.

In addition to the results of the cost-benefit analysis, the following factors may also be considered:

- the degree to which the business improves the diversification of the economy,
- the kinds of jobs created in relation to the types of skills available from the local labor market,
- the degree to which the ultimate market for the business products and services is outside the community, recognizing that outside markets bring “new money” to the local economy,
- the potential of the business for future expansion and additional job creation,
- the beneficial impacts the business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing and creation of niche businesses, such as those in the bioscience area,
- the benefits and impacts the firm has on environmental quality both to the region or, through its products, nationally, as well as any efforts the firm makes to promote sustainability or mitigate environmental harm, and

- the beneficial economic impact the business will have on a particular area of the City, including designated enterprise zones and areas of needed revitalization or redevelopment, and
- the compatibility of the location of the business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services.

1-2107 PERFORMANCE PROVISIONS

Each company that receives an incentive from the City will be held accountable to certain performance provisions. These provisions will be included in a performance agreement between the company receiving the incentive and the City. Each performance agreement shall contain annual targets for capital investment, job creation and wage structure. The average of these three targets will be used to create an overall annual percentage of compliance for that year. These annual targets will then determine the amount of annual incentives that the company will receive for that year. Substantial compliance and incentives received will be determined by the following chart:

% compliance with annual target	Amount of incentive to be received
90-100%	100%
80-89%	85%
70-79%	75%
Below 70%	No incentive

Depending upon the funding mechanism utilized and the application, additional performance criteria may be utilized and included in the compliance calculation.

Substantial compliance will be evaluated annually. Failure to fully meet compliance requirements in any one year will result in a reduction in incentives only for the following year. In addition, any firm that does not provide the information required in its annual report may be subject to incentive reductions for the current year.

City Staff shall notify the firm of any adverse finding prior to an incentive reduction being taken. The firm shall have the privilege of appealing an adverse finding to the City Commission as set forth in Section 1-2109 below. The City Commission may override an incentive reduction determination for that year with a majority vote.

Regardless of the funding mechanism used, the City should be mindful to secure its assets and ensure satisfactory performance by the Applicant. A number of tools can be utilized by the City, and be included in the performance agreement, in order to accomplish this.

1-2108 PUBLIC INCENTIVES REVIEW COMMITTEE

The Public Incentives Review Committee (PIRC) has been established to review and comment about City incentives under this policy. Additionally, the committee is charged with annual review and monitoring of compliance for all cashlike incentives issued under this ordinance. The purpose of the Public Incentives Review Committee is to:

- Ensure that the public, the County, and the School District have an opportunity to participate in the application and review procedures for public incentives,
- Receive and review requests for all incentives requested by applicants,
- Gather and review such additional information as may be deemed necessary to determine if the company meets the target objectives set forth in this policy,
- Make recommendations on the application for consideration by the City Commission, especially as related to the factors listed in Section 1-2106 that are in addition to the benefit-cost model,
- Review the City's yearly incentive report and compliance with performance agreements, and
- Review other economic development related matters upon the request of the City Commission.

The Public Incentives Review Committee shall be composed of:

1. the Mayor, or the Mayor's designee, who shall serve as chair,
2. another member of the City Commission appointed by the Mayor with the consent of the City Commission,
3. a member of the Douglas County Commission, as appointed by the County Commission,
4. a member of the Lawrence Public Schools U.S.D. 497 School Board or a School Board representative, appointed by the School Board,
5. a professional financial analyst appointed by the Mayor and City Commission for a three year term,
6. the Chair of the Lawrence/Douglas County Economic Development Board,
7. a resident of Lawrence appointed for a three year term by the Mayor and the City Commission, from a list of not less than three people chosen by the Sustainability Advisory Board (SAB), and
8. a resident of Lawrence appointed for a three year term by the Mayor and the City Commission.

City, County, and School District staff shall provide technical and policy advice to the Committee. The Committee shall meet on call of the Mayor.

Public Incentives Review Committee records, including applications for tax exemptions, may be withheld from public disclosure under the Kansas Open Records Act as provided for under subsections (20) and (31) and other subsections of K.S.A. 45-221, but shall be

available for public inspection when otherwise required by law. The Committee is authorized to issue administrative letters of finding which shall not be binding on the City Commission, and may be superseded by any action by the City Commission.

1-2109 ACCOUNTABILITY

Annually, City Staff will be responsible for reviewing the performance of each recipient of funds for the previous year. The purpose of this review is to check for compliance with the performance agreement and to gather information regarding cumulative job creation, wage structure, and other such information necessary to gauge the performance of the company. The accountability review may include a site visit.

The fund recipient will be required to certify, to the City, compliance with the performance agreement's wage, capital, and job requirements for the preceding year. For the purposes of a property tax abatement, this compliance report shall include information showing how the wage floor, average wages, and health insurance requirements as set forth in Section 1-2112 (2.), (3.), and (4.) have been met. Such certification will be signed and returned to the City by March 1 of the current year. The accountability period will last only as long as required to meet the performance obligations outlined in the performance agreement.

Utilizing the information gathered, City staff will compile an incentives report, showing statistics and other information relative to each recipient of funds, as well as the overall performance of each fund. The report will be provided to the Public Incentives Review Committee by April 1. If either City staff or the Public Incentive Review Committee finds that substantial compliance has not been met by a firm, as calculated in the respective performance agreements, the firm shall be notified of such finding before presenting the incentives report to the City Commission.

The incentives report along with comments and recommendations from the Public Incentives Review Committee shall be submitted by City staff to the City Commission no later than May 1. This submission shall note any firms that wish to appeal a finding of non-compliance. Firms must provide a written request for appeal of such findings to the City no later than May 15 to ensure that any appeals for the current year are addressed in a timely manner. Written requests to appeal a finding must:

1. address the specific targets the firm is not meeting,
2. include reasons for non-compliance with these particular performance targets, and
3. discuss whether the firm believes that substantial compliance can be met in the following year.

INDUSTRIAL REVENUE BONDS

1-2110 PURPOSE

Industrial Revenue Bonds (IRBs) are an incentive established by the State of Kansas to enhance economic development and improve the quality of life. The City may from time to time grant IRBs when the project under consideration helps further the economic and community development objectives as set forth in this Ordinance and Horizon 2020.

1-2111 CRITERIA

The City favors issuing Industrial Revenue Bonds to projects that bring in new revenues from outside the community or enhance the local quality of life over projects that will primarily compete against other local firms. Additionally, a project must meet the following criteria in order to qualify for IRBs:

1. Only those projects which qualify under Kansas law will be eligible for IRB financing. The City shall look more favorably upon projects that support the targeted industries listed in Section 1-2103, above.
2. The proposed project shall achieve one or more of the following public benefits:
 - (A) meet the economic development goals of the City as set forth in this policy and the Comprehensive Plan of Lawrence and Douglas County;
 - (B) enhance Downtown Lawrence;
 - (C) promote infill through the development of vacant lots, the rehabilitation of deteriorated properties or the adaptive reuse of historic properties;
 - (D) incorporate environmentally sustainable elements into the design and operation of the facility; or
 - (E) provide other public benefits to the community, particularly as set forth in the Comprehensive Plan of Lawrence and Douglas County.
 - (F) For projects unrelated to primary job creation or affordable housing, the proposed project results in a combined positive cost-benefit ratio of 1:1.25 or greater over a 15 year period, as determined by the City adopted benefit-cost model.
3. The prospective tenant shall show the financial capacity to complete the proposed project and successfully market the bonds.

1-2112 SPECIAL CONSIDERATION FOR HOUSING AND RETAIL PROJECTS

Except as indicated below, Industrial Revenue Bonds shall not be granted for projects that are principally for retail or residential use.

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1. Projects requesting IRBs that are primarily retail in nature shall only be considered if the applicant demonstrates that the project is exceptional and unique, and is likely to add to the retail base by attracting new retail sales or capturing sales that are leaking to other markets.

2.

Projects having four (4) or more residential units seeking an IRB shall only be considered if a portion of those units are set aside for households making 80% of the Area Median Income, as defined annually by the U.S. Department of Housing and Urban Development (HUD) for Douglas County, Kansas.

Projects shall reserve and maintain the number of dwelling units designated as affordable housing units for a period of not less than fifteen (15) years of any Certificate of Occupancy and must have a suitable management program in place to ensure affordable housing eligibility requirements are met for those units. The units set aside for affordable housing are subject to the below parameters.

<u>Affordable Housing Parameters</u>			
<u># Residential Units</u>	<u>% of Residential Units Set Aside for Affordable Housing</u>	<u>Income Parameters</u>	<u>Rent Parameters</u>
<u>4-49</u>	<u>Not less than 10%</u>	<u>80% of Area Family Median Income as defined annually by HUD for Douglas County, Kansas</u>	<u>Fair Market Rent as determined annually by HUD for Douglas County, Kansas</u>
<u>50 or more</u>	<u>Not less than 35%</u>		

~~Projects requesting IRBs that are primarily residential in nature shall only be considered if the project is a multi-family or senior living project and fits the criteria herein described.~~

2. ~~Infill development or redevelopment is preferred or mixed-use projects, or Downtown development are more desirable, as are projects in the Downtown area, and viewed more favorably. Multi-family or senior living projects that contain no non-residential uses and are requesting IRBs must have at least 35% of all housing units set aside for households making 80% of the Area Median Income or less. Infill housing projects shall be looked upon more favorably if they are mixed use, located in Downtown, or both.~~

1-2113 PROCEDURES

1. **Formal Application.** An applicant may pick up a formal application either at City Hall in the City Manager's Office, or online. The applicant shall complete the application and file it with the City Manager. An application fee of \$1,000 is due

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upon filing in order to help defray the City's cost in processing the application. Such fee shall be collected regardless of the City Commission's action on the application or if the bond issue closes.

2. **Preliminary Review.** City staff will provide an initial review of the application to ensure that it meets the requirements in City policy.
3. **Coordination with Bond Counsel:** City staff will coordinate with the applicant and bond counsel a schedule for the issuance of the bonds which meets the needs of all parties involved. During the process, bond counsel will assist with the preparation of other documents needed for filing through the State of Kansas.

Applicants are encouraged to utilize the City's bond counsel. In the event that the applicant selects other bond counsel, the City may require its bond counsel to be involved in the transaction in a review capacity, depending upon the amount of the transaction and the project involved.

4. **Public Notification:** At least seven (7) days prior to consideration, the City shall prepare a Notice of Public Hearing to be published in the official City newspaper, giving notice of hearing on the IRB request, and indicating the purpose, time and place thereof.
5. **Resolution of Intent and Ordinance Provisions:** The City Commission shall conduct a public hearing and consider a Resolution of Intent followed by two readings of an ordinance authorizing the issuance of the bonds.
6. **Documents:** All documents related to Industrial Revenue Bonds will be kept on file with the City Clerk.

1-2114 SALES TAX EXEMPTIONS

Labor and materials used in construction as well as equipment purchased with IRB proceeds are generally exempted from State and local sales tax. ~~Payments in lieu of sales tax may be made as negotiated between the City and the Applicant.~~

1-2115 INDUSTRIAL REVENUE BONDS AND TAX ABATEMENTS

Applicants that request tax abatements in conjunction with IRBs must follow the policies and procedures set forth in the City's Tax Abatement Policy in addition to the procedures for IRBs as provided above.

1-2116 ORIGINATION AND ADDITIONAL OTHER FEES

~~At the time the IRBs are issued, Each the applicant who receives an issuance of Industrial Revenue Bonds shall pay all fees associated with the issuance of the Industrial Revenue Bonds-IRBs, including the City's origination fee.~~

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The applicant shall pay the City an origination fee of 0.0010 of the par amount of bonds being issued on behalf of a for-profit company, unless the project will create primary jobs or add affordable housing to the community. If the project is anticipated to create primary jobs or add affordable housing to the community, the City will not charge an origination fee.

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For IRBs issued on behalf of not-for-profit organizations, the City will not charge an origination fee.

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1-2117 AUTHORITY TO ISSUE INDUSTRIAL REVENUE BONDS

The authority to approve the issuances of IRBs shall be ~~the responsibility discretionary by~~ of the City and shall be the sole responsibility of the City Commission. The Commission's decision for approval or disapproval will be based on the analysis made by the City staff and the recommendations the staff provides to the City Commission from its review of all pertinent data relating to a particular request for bonds.

1-2118 REPEAL OF PREVIOUS RESOLUTION

Resolution 5239, approved May 4th, 1989 to govern the issuance and use of Industrial Revenue Bonds by the City, is hereby repealed.

PROPERTY TAX ABATEMENTS

1-2119 PURPOSE FOR PROPERTY TAX ABATEMENTS

In order to help meet its economic development objectives, the City may from time to time grant tax abatements to firms that meet State Constitutional requirements or have received an Industrial Revenue Bond, and are within the City's targeted industries. It shall be the policy of the City to grant up to a 50% "Baseline" abatement for firms that meet the investment and employment criteria outlined in Sections 1-2112, 1-2113 and 1-2114. Firms may receive an additional abatement if they meet the additional criteria outlined in these same sections.

1-2120 DEFINITIONS

For the purpose of the Property Tax Abatement section of the Ordinance, in application to the City of Lawrence, the words or phrases as used shall have the following meaning:

1. "Applicant" shall mean and include the business, property owner or owners, and their officers, employees and agents.

2. "Associated therewith" as used with respect to tangible personal property shall mean being located within, upon, or adjacent to buildings or added improvements to buildings.
3. "Commenced operations" shall mean the start of the business activity housed in the building for which a tax exemption is requested.
4. "Economic development purposes" shall mean the expansion or the establishment of a new business enterprise which:
 - (A) is or proposes to be located or principally based in Kansas; and
 - (B) can provide demonstrable evidence that:
 - i) it is or will be primarily engaged in any one or more of the Kansas basic industries,
 - ii) it is or will be primarily engaged in the development or production of goods or the provision of services for out-of-state sale, or
 - iii) it is or will be primarily engaged in the production of raw materials, ingredients or components for other enterprises which export the majority of their products,
 - iv) it is a national or regional enterprise which is primarily engaged in interstate commerce,
 - v) it is or will be primarily engaged in the production of goods or the provision of services which will supplant goods or services which would be imported into the city, or
 - vi) it is the corporate or regional headquarters of a multistate enterprise which is primarily engaged in out-of-state industrial activities that take place outside of Lawrence.
5. "Kansas basic industry" shall mean:
 - (A) agriculture,
 - (B) mining,
 - (C) manufacturing,
 - (D) interstate transportation,
 - (E) wholesale trade which is primarily engaged in multistate activity or which has a major import supplanting effect within the state,

- (F) financial services which are primarily engaged in providing such services for interstate or international transactions,
 - (G) business services which are primarily engaged in providing such services to out-of-town markets,
 - (H) research and development of new products, processes or technologies, or
 - (I) tourism activities which are primarily engaged in for the purpose of attracting out-of-state tourists.
6. As used in these subsections, "primarily engaged" means engagement in an activity by an enterprise to the extent that not less than fifty-one percent (51%) of the gross income of the enterprise is derived from such engagement.
 7. "Expansion" shall mean the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property, or any combination thereof, which is new to the tax rolls and increases the employment capacity of a business eligible for a tax exemption.
 8. "Tangible personal property" shall mean machinery and equipment which is new to the tax rolls and used during the term of the tax exemption which may be granted.

1-2121 REQUIREMENTS FOR CONSIDERATION OF A TAX ABATEMENT

The City shall only grant a tax abatement to a business which meets the legal requirements for a tax abatement and which indicates in their application that they will fully comply with the following requirements:

1. the business is environmentally sound.
2. the business pays all employees in the abated project an average wage per employment category that meets or exceeds the average in the community as determined annually by the Kansas Department of Human Resources Wage Survey.
3. the business pays all covered employees a wage, at or above, an amount which is equal to one hundred thirty percent (130%) of the federal poverty threshold for a family of three (3), as established by the United States Department of Health and Human Services, as further set forth in Section 1-2113 of this ordinance.
4. the business provides one of the following:
 - (A) the availability of covered employees to obtain an employer-sponsored health insurance policy, pursuant to employer guidelines, in which case the

employer provides a minimum of seventy percent (70%) of the cost of such policy, or

- (B) as an alternative to offering an employer-sponsored health insurance policy, the employer shall pay the covered employee a wage which is at least \$1.50 per hour above the amount required in (3.) above.

- 5. the proposed project and tax abatement results in a combined positive cost:benefit ratio of 1:1.25 or greater over a 15 year period as determined by the City adopted benefit-cost model.

1-2122 WAGE FLOOR AND HEALTH INSURANCE REQUIREMENTS

The requirements of Section 1-2112, subsections (3.) and (4.), may be referred to as the wage floor and health insurance requirements of this policy. The wage floor requirements shall be annually adjusted pursuant to the release of statistical information from the federal government, and the City shall notify in writing the businesses receiving a tax abatement, which are affected by the wage floor requirements. For 2009, the wage floor is \$11.43 per hour. These requirements shall apply to all employees of a business receiving a tax abatement at the specific real estate receiving the tax abatement, with the exception of a business that has Lawrence operations prior to the granting of a tax abatement in which case the wage floor and health insurance requirements shall apply to all employees in the abated project.

The wage floor and health insurance requirements for tax abatements shall not apply to the following employees:

1. employees employed in a bona fide or certified job training program for no more than 60 calendar days (once per employee),
2. temporary employees working fewer than 100 hours per calendar year, or
3. employees with the status of student seasonal workers hired for not to exceed ninety calendar days, or
4. employees of not-for-profit organizations.

Covered employees would not include subcontractors whose work is only incidental to plant operations. Suppliers, raw goods/material suppliers, landscape companies, construction contractors, delivery employees shall not be covered employees.

The wage floor and health insurance requirements shall not apply to employees covered by a collective bargaining agreement that provides a wage higher than the requirements of this ordinance.

In order to ensure compliances with the health and wage floor requirements, firms shall maintain payroll records for covered employees and shall preserve them for a period of two (2) years. The records shall contain:

1. the name and address of each covered employee,
2. the job title and classification,
3. the number of hours worked each day,
4. the gross wages earned and deductions made,
5. records of health insurance payments made by the employee and employer, and
6. additional information necessary to establish that an employee is exempt from the wage floor and health insurance requirements established in this section.

A copy of these records shall be provided to a third-party auditor to review and determine compliance with the requirements of this ordinance. Members of the Public Incentive Review Committee, City staff selected by the City Manager, or the City Commission may review these records in the custody of the third-party auditor but may not do anything to remove or destroy their confidential nature.

1-2123 AMOUNT OF TAX EXEMPTION

It shall be the policy of the City to approve a tax abatement for the real property portion of a project if the project meets the requirements set forth in Sections 1-2112, 1-2113 and 1-2114 of this ordinance. In determining the actual amount of tax abatement to be granted to Kansas basic industries that meet the Economic Development Objectives of Section 1-2102 of this Ordinance, the City shall use as a guideline the following basic schedule:

1. up to fifty percent (50%) property tax abatement for ten years on investments greater than \$7 million in adjusted 2009 dollars and a minimum of 30 new jobs that meet the wage requirements as outlined in Section 1-2112 (3. to 5.), or
2. if the firm has been on the Douglas County property tax rolls for more than 3 years, up to fifty percent (50%) property tax abatement for ten years on investments greater than \$5 million in adjusted 2008 dollars and a minimum of 20 new jobs that meet the requirements outlined in Section 1-2112 (3. to 5.),
3. investments that meet one or more of the following criteria, may receive a property tax abatement that exceeds fifty percent (50%):
 - (A) a company that has been on the Douglas County property tax rolls for at least three (3) years may receive up to an additional ten percent (10%) tax abatement,
 - (B) capital investments that exceed \$10 million dollars in adjusted 2009 dollars may receive up to an additional five percent (5%) abatement,

- (C) projects constructed in compliance with Leadership in Energy and Environmental Design (LEED) criteria may receive up to an additional five percent (5%) abatement for "Certified" or "Silver" certification, and ten percent (10%) for "Gold" or "Platinum" certification,
- (D) unique site constraints or construction requirements that make development more difficult and costly may receive up to an additional five percent (5%) abatement,
- (E) a project that is seen as a catalyst for future projects in an economic development area of focus for the community, such as the biosciences, may receive up to an additional five percent (5%) abatement,
- (F) a project that is located in a targeted development location as defined by the City Commission, or a site that already has infrastructure in place such as an existing business park, may receive up to an additional five percent (5%) abatement, or
- (G) a project that is seen as providing exceptional wages given current market conditions, industry norms in Douglas County and other relevant business factors, may receive up to an additional ten percent (10%) abatement.

These criteria are additive. For example, a local firm that invested \$15 million in real property and received LEED gold certification on the new facility, may qualify for a property tax abatement of up to 75%. This abatement would include the 50% "Baseline" abatement, plus a 10% adjustment for being a local firm, plus a 5% adjustment for a capital investment exceeding \$10 million, plus a 10% adjustment for a LEED gold certification.

4. the governing body may vary the amount, maximum, and duration of the abatement provided the net abatement to a business shall not reduce the net tax revenues as would be received pursuant to the above schedules to the local taxing units over ten (10) years.

The abatement term for projects considered under authority of Section 13 of Article 11 of the Kansas Constitution shall begin in the calendar year after the calendar year in which the business commences its operations. The abatement term for Industrial Revenue Bond (IRB) projects considered under authority of K.S.A. 12-1740 et seq. and K.S.A. 79-201a shall begin in the calendar year after the calendar year in which the bonds are issued.

1-2124 APPLICATION AND RENEWAL FEES

Any business requesting a tax abatement pursuant to this ordinance shall pay to the City an application fee of \$500.00 which shall be submitted at the same time the application form required in Section 1-2105 is submitted. In addition, any business which has been granted a tax abatement shall pay an annual renewal fee in the amount of \$200.00. In addition to the application and renewal fees, the business seeking a tax abatement shall

be responsible for any City costs associated with the retention of bond counsel, attorney costs, or auditing costs associated with abatement approval and review, auditing or industrial revenue bond issuance.

1-2125 LETTERS OF INTENT

For IRBs, the City Commission may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax abatement and any conditions thereto. Such letters of intent shall be issued only as an expression of good faith intent and shall not in any way bind the City Commission to the granting of an abatement. Such letters of intent shall expire six months after issuance, but may be renewed. A public hearing shall not be required prior to the issuance of letters of intent. No elected or appointed officer, employee or committee of the City, Chamber employee, or other public or private body or individual, shall be authorized to speak for and commit the City Commission to the granting of a tax abatement. Letters of intent issued by the City Commission shall supersede any letters issued by the Public Incentives Review Committee.

1-2126 MINIMUM PAYMENT IN LIEU OF TAXES

Any applicant receiving a tax abatement pursuant to this ordinance shall be required to make a minimum payment in lieu of taxes. The minimum payment shall equal the amount of property tax paid or was payable for the most recent year prior to the acquisition of the property by the new business or the construction of new buildings or added improvements to buildings. The purpose of requiring a minimum payment in lieu of taxes is to provide the City, the County, the School District and any other taxing jurisdictions affected by the abatement with as much tax revenue from the exempted property as was received prior to the abatement.

1-2127 LEGAL AUTHORITY

The governing bodies of Kansas counties and cities may exempt certain property used by Kansas basic industry for economic development purposes from taxes for a maximum of ten (10) years, in accordance with the provisions of Section 13 of Article 11 of the Kansas Constitution and the provisions of K.S.A 12-1740 et seq. and K.S.A 79-201a, subject to such limitations or prohibitions as may be enacted by the legislature. This authority is discretionary with the City, and the City may provide for tax abatements in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule and statutory powers, the City may:

- require the owners of any property for which an abatement is requested to provide certain information,
- condition the granting of an abatement to an agreement providing for the payment of in lieu charges or taxes, and
- require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

1-2128 JURISDICTION

The City shall grant tax abatements only as to property located within the City. The City will advise Douglas County and appropriate school districts on all applications. The City encourages the Board of County Commissioners to advise the City as to applications outside the City and within the three-mile area.

1-2129 NOMINAL TAX DETERMINATION

All tangible property of a business receiving a tax abatement under this ordinance shall be annually assessed by the County Appraiser in the same manner as if it were not exempt, but the amount exempted shall not be placed on the assessment rolls. The amount of the property taxes which would be payable shall also be determined annually by the County Clerk and Treasurer, in the same manner as if the property were not exempt. Separate assessment and tax calculations shall be made for the land and the improvements thereon.

The County Clerk and Treasurer are requested to provide the City with this information as early as possible, but not later than November 15 of each year.

1-2130 SPECIAL ASSESSMENTS

Any tax abatement granted for real property under this ordinance shall not affect the liability of such property for any special assessments levied or to be levied against such property.

1-2131 PIRATING

It is the intent of the City, the County and the Chamber to avoid participation in "bidding wars" between Kansas cities or areas competing for the relocation of an existing Kansas business through attempts to offer the largest tax incentive or other public inducement, which is detrimental to the state's economy and the public interest. It is the policy of the City to discourage applications for tax abatements, or to grant tax abatements which deliberately encourage and cause the pirating of business from another Kansas community to this community. This policy does not preclude the providing of information to companies that inquire about Lawrence or are seeking an expansion rather than a relocation. It also does not preclude the granting of a tax abatement in those situations-where:

- the company has already made a decision to relocate or expand, or
- the company is seriously considering moving out of state.

1-2132 NO UNFAIR ADVANTAGE

A tax abatement will not be granted if the abatement would create, in the judgment of the City Commission, an unfair advantage for one business over another Lawrence business that competes for the same consumer market within the city.

1-2133 TRANSFER OF OWNERSHIP OR USE

No abatement or tax incentive granted by the City shall be transferred as a result of a change in the majority ownership of the business. Any new majority owner shall file a new application for a tax abatement. Further, the City shall be notified by the business of any substantive change in the use of a tax exempt property.

1-2134 DISTRIBUTION OF REVENUE

The granting of tax abatement by the City Commission is hereby declared to be a contract under the provisions of K.S.A. 12-147. The in lieu of taxes payment which may be required of a business granted a tax abatement under this ordinance shall be paid to the County Treasurer, with notice of the amount and date paid provided to the City. The County Treasurer is directed to apportion the payment to the general fund of all taxing subdivisions, excluding the state, which levies taxes on property where the business is situated. The apportionment shall be based on the relative amount of taxes levied, for any and all purposes, by each of the applicable taxing subdivisions.

1-2135 EXEMPTION ORDINANCE

The City Clerk shall provide a copy of the ordinance, as published in the official city newspaper, granting an abatement from taxation to the applicant for use in filing an initial request for tax exemption as required by K.S.A. 79-213, and by K.S.A. 79-210 for subsequent years.

1-2136 EXEMPTION FORMS

A copy of the exemption application required by K.S.A. 79-213 and 79-210, and the statement required by K.S.A. 79-214 for the cessation of an exempt use of property, shall be filed with the City Clerk by the property owner.

1-2137 NO RETROACTIVE APPLICATION

This ordinance shall only apply to tax abatements approved after the adoption of the ordinance, and shall not apply retroactively to previously approved abatements and projects. Tax abatements granted pursuant to earlier City policies and procedures shall be governed by the City policy and procedures in effect upon the initial granting of the abatement.