

## RESOLUTION NO. 4471

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

**WHEREAS**, Chapter 312 of the Texas Tax Code, cited as the Property Redevelopment and Tax Abatement Act, authorizes municipalities to grant tax abatements upon establishing guidelines and criteria for tax abatement agreements; 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 City; and

**WHEREAS**, the City Council, as governing body of the City of Keller, Texas (Council), is committed to the promotion of quality development and expansion of its existing business base, and further recognizes the importance of retaining existing businesses, retaining or creating employment opportunities for residents and providing for the redevelopment of sub-standard properties; and

**WHEREAS**, the Council hereby elects to be eligible for tax abatement as provided for in the guidelines and criteria established in the Policy; and

**WHEREAS**, the City Council by Ordinance No. 735 approved on March 1, 1994, as further amended, established the Keller Economic Development Board (Board) for the purposes defined in Article XV of the Keller Code of Ordinances; and

**WHEREAS**, the Incentives Policy (Policy) attached as Exhibit A, promotes economic development and stimulates business and commercial activity in the City and establishes guidelines and criteria for approval of tax abatements and other incentives; and

**WHEREAS**, the Council desires for this Policy to replace previously adopted incentive policies and / or guidelines, including but not limited to the following:

- Resolution 0787 approved on November 11, 1996;
- Resolution 2993 approved on September 21, 2010;
- Resolution 3349 approved on April 2, 2013; and
- Resolution 3460 approved on December 17, 2013.

**WHEREAS**, the Board on December 20, 2021 considered and recommended approval of the Policy to the Council; and

**WHEREAS**, upon full review and consideration of the Incentives Policy attached as Exhibit A and all matters attendant and related thereto, the 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 City.

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

### **SECTION 1.**

The facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct.

**SECTION 2.**

The City Council finds that the guidelines and criteria of the Policy will promote economic development and stimulate business and commercial activity in the City.

**SECTION 3.**

The City Council hereby adopts the Policy authorizing the City 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 4.**

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

**SECTION 5.**

This Resolution shall become effective from and after its passage.

**PASSED AND APPROVED** this the 18th day of January, 2022.

\_\_\_\_\_  
Armin Mizani, Mayor

ATTEST:

\_\_\_\_\_  
Kelly Ballard, TRMC  
City Secretary

Approved as to form and legality:

\_\_\_\_\_  
L. Stanton Lowry, City Attorney

**EXHIBIT A**  
**Incentives Policy**

**Keller, Texas**  
*Incentives Policy*

**WHEREAS**, the City of Keller Economic Development Board (Board), on December 20, 2021 considered and recommended approval of this Incentives Policy (Policy) to the Keller City Council (Council); and

**WHEREAS**, upon full review and consideration of this Policy, the 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 City.

**BE IT KNOWN**, that the Council on January 18, 2022 approved Resolution 4471 adopting the following guidelines and criteria as the City of Keller’s Incentives Policy.

**Section 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 City for the furtherance of its economic development and community goals. This Policy shall include provisions for Tax Abatement as well as use of sales tax funds, general funds of the City, and any other resources as approved by the 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 City 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:

- 1.1. When in the best interests of the City, provide Incentives to existing businesses that will enhance the commercial viability and sustainability of existing commercial properties in the City;
- 1.2. When in the best interests of the City, provide Incentives to the extent necessary to attract desired businesses or developers to invest in the City;
- 1.3. Encourage development and / or redevelopment of targeted areas in the City;
- 1.4. Create employment opportunities for residents of the City;
- 1.5. Increase the non-residential ad-valorem tax and / or sales and use tax revenue base for the City; and
- 1.6. 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.

**Section 2.**  
***Definitions***

The following definitions shall apply to the terms used in this Policy.

Agreement: Shall mean a Performance Agreement as defined herein.

Agreement in Principle (AIP): Shall mean a non-binding draft of performance requirements of a Project and any Incentives to be offered by the City.

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

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

Appraisal District: Shall mean the Tarrant Appraisal District.

Base Year Value: Shall mean the assessed value of the Facility on the 1<sup>st</sup> of January preceding the execution of a Performance Agreement.

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

Board: Shall mean the Keller Economic Development Board.

City: Shall mean the City of Keller, Texas.

Code Violations: Shall be as defined in the City'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, engineering, construction document preparation, bidding, and construction financing.

Council: The City Council of the City.

County: Shall mean Tarrant County, Texas.

Director: Shall mean the Director of Economic Development for the City.

Effective Date: The date this Policy was approved by the 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 Property, building and Improvements.

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

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

Improvements: Shall mean the New Construction or Modernization of buildings, interiors, site work, Public Works Improvements, parking and drives, landscaping, irrigation, lighting and specifically excluding land and / or Business Personal Property.

Incentives: Shall be as defined in Section 5 herein.

Minimum Performance Requirements: Shall be as defined in Section 6 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.

New Construction: Shall mean the first-time construction of Improvements utilizing newly purchased materials, and specifically excluding any remodeling or renovations undertaken after issuance of the first Certificate of Occupancy.

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

Performance Agreement: Shall mean a written agreement summarizing the performance requirements of a business or developer and the Incentives to be provided by the City upon fulfillment of those performance requirements (e.g Tax Abatement Agreement, Chapter 380 Agreement).

Policy: Shall mean this Incentives Policy.

Project: The initiative or investment to be provided in accordance with the performance standards of any Performance Agreement providing Incentives.

Property: Shall mean the physical parcel of land for which Incentives are being granted.

Property – Business Personal: Shall mean the tangible and movable items used in the course of business not permanently affixed to, or part of, the real estate. Examples of Business Personal Property (BPP) include: furniture, machinery and equipment, computers, vehicles, inventory and supplies.

Property - Real: Shall mean the Property and the Improvements constructed on the Property.

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

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 City if the required performance criteria are not met.

Staff: The City Manager 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.

### **Section 3. General Eligibility**

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

- 3.1. Properties: Only properties meeting the following requirements at the time an Application is submitted shall be eligible to receive Incentives outlined by this Policy.
  - 3.1.1. Within the City: Property must be located within the City’s municipal boundaries unless provisions for annexation into the City are part of the Performance Agreement.
  - 3.1.2. Zoning: Property must be zoned for the proposed uses.
  - 3.1.3. Taxes: Property shall be in good standing as it relates to taxes due to the City.
  - 3.1.4. Liens: Property shall be in good standing as it relates to any liens held by the City.
  - 3.1.5. Ownership: Property owners must provide sufficient proof of ownership.
  - 3.1.6. Code Violations: Property must not have any outstanding code violations with the City.
  - 3.1.7. Construction Commencement: Construction for the Facility must not have commenced prior to the approval of a Performance Agreement.

- 3.2. Businesses: Only businesses meeting the following requirements shall be eligible to receive Incentives outlined by this Policy.
  - 3.2.1. Taxes: The business shall be in good standing as it relates to taxes due to the City.
  - 3.2.2. 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 City approval of the Application.
  - 3.2.3. Length of Operations: Existing businesses must have maintained operations in the City for two (2) years consecutively in order to receive Incentives.
- 3.3. Statutory Limitations: It is the intent of the City to comply with all statutory limitations on the use of any public funds for the purposes identified herein.

#### **Section 4. Priorities**

The City 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.

- 4.1. Geographic Areas: The following are the City's preferences for providing Incentives in geographic areas of the City.
  - 4.1.1. High Priority:
    - A. Properties within the City's Tax Increment Reinvestment Zone #2 (TIRZ #2)
- 4.2. Businesses: The following are the City's preferences for providing Incentives to certain types of businesses in the City.
  - 4.2.1. High Priority:
    - A. High quality full-service restaurants;
    - B. Experiential retail that is family-friendly and will attract visitors to Keller to enjoy a unique experience;
    - C. Small employers with high-paying jobs that match our resident's demographics;
    - D. Businesses that generate high-paying jobs;
    - E. Businesses that have a limited impact on the natural environment;
    - F. Technology services; and
    - G. High sales tax generators.

#### **Section 5. Incentives**

Following are Incentives that the City, 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. Any Incentives provided pursuant to this Policy shall not reduce the Base Year Value of the Facility.

- 5.1. Financial – Ad Valorem Taxes: The City may consider granting the following Incentives relative to Ad Valorem Taxes.

- 5.1.1. Real Property Tax: The City may consider abating the taxes on Real Property by approval of a Tax Abatement Agreement or by approval of a Performance Agreement granting back Real Property taxes paid to the City.
- 5.1.2. Business Personal Property Tax: The City may consider abating the taxes on Business Personal Property by approval of a Tax Abatement Agreement or by approval of a Performance Agreement granting back Business Personal Property taxes paid to the City.
- 5.1.3. Tax Stabilization / Incremental Increase: In a situation where an existing Facility may be Expanded or Modernized, the City 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 City.
- 5.1.4. Agricultural Exemption: The City may consider granting back all or a portion of the Ag Exemption City taxes due at the time of development.
- 5.2. Financial – Sales Tax Grants / Reimbursements: Through approval of a Performance Agreement, the City 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 City. i.e. if a retail business is currently operating in the City, and relocates to the new development, it's sales taxes shall be excluded from the calculation of new sales taxes generated.
  - 5.2.1. General Fund Sales Tax: The sales and use taxes going to the City's general fund.
- 5.3. Financial - Fee Reductions / Credits: The City may consider the reduction, credit or reimbursement of all or a portion of the following fees. This shall not include any charges by third-parties assisting the City with implementation of services provided by the fees unless so provided in an approved Performance Agreement.
  - 5.3.1. Impact Fee - Water: Any water Impact Fee charged by the City. This shall not include the "pass-through" Impact Fees owed to any other Agency.
  - 5.3.2. Impact Fee - Wastewater: Any wastewater (aka sanitary sewer) Impact Fee charged by the City. This shall not include the "pass-through" Impact Fees owed to any other Agency.
  - 5.3.3. Impact Fee - Roadway: Any roadway Impact Fee charged by the City.
  - 5.3.4. Road Participation Fee: Any roadway participation fee charged by the City.
  - 5.3.5. Drainage Improvement Fee: Any fee charged for the improvement of drainage facilities in the City.
  - 5.3.6. Park Dedication Fee: Any fee charged for the improvement of park systems in the City.
  - 5.3.7. Public Art Fee: Any fee charged to support public art in the City.
  - 5.3.8. 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.
  - 5.3.9. Plan Review Fee: Any fee related to the review and administrative processing of construction plans for Public Works Improvements.
  - 5.3.10. Inspection Fee: Any fee related to the inspection of the Improvements.
- 5.4. Financial - Misc.: The City may consider the following miscellaneous financial Incentives.
  - 5.4.1. Equipment Purchase / Lease: Funds provided to assist with or provide for the purchase of equipment that increases production for the business.
  - 5.4.2. Lease Guarantee: An Agreement by the City to guarantee any part of a real estate lease for a desired business.



- 5.4.3. Loan Guarantee: An Agreement by the City to guarantee any part of the construction or operating loans related to the Project.
- 5.4.4. Forgivable Loan: An agreement by the City to provide a loan whose repayment may be forgiven under particular circumstances.
- 5.4.5. Cash Grants: Grants of cash to the Applicant pursuant to an Agreement.
- 5.5. Sales, Lease or Exchange of Land or Buildings: The City recognizes that the sale and conveyance, lease, or exchange of certain property owned by the City may meet the objectives identified in this Policy. In accordance with State Law, the City 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.
  - 5.5.1. Build-to-Suit / Leaseback: An agreement where the City 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 City.
  - 5.5.2. Free / Reduced-Cost Land: Any provision where the City provides free or reduced-cost lands to the Applicant.
  - 5.5.3. Free / Reduced-Cost Building: Any provision where the City provides a free or reduced-cost building to the Applicant.
  - 5.5.4. Land Lease: Any provision where the City leases rights to City-owned land to the Applicant to allow construction of their Facility.
- 5.6. Employment-Related: The City may consider the following employment-related Incentives.
  - 5.6.1. Relocation Assistance: Any provision where the City provides assistance to new employees relocating to residency within the City.
  - 5.6.2. Cash for Employment: Any provision where the City provides for one-time payments to the Business for each new employee of a certain classification established at a new or existing Facility in the City.
  - 5.6.3. Employee Recruitment Assistance: Any provision where the City provides assistance with the recruiting of new employees to a new or existing facility in the City.
  - 5.6.4. Employee Training Assistance: Any provision where the City provides assistance in the training of new employees employed at a new or existing facility in the City.
- 5.7. Infrastructure Assistance: The City may consider the following infrastructure assistance Incentives.
  - 5.7.1. Water Line Extensions: Participation in all or a portion of the costs of extending water distribution lines to the Facility.
  - 5.7.2. Sewer Line Extensions: Participation in all or a portion of the costs of extending sanitary sewer lines to the Facility.
  - 5.7.3. Roadway Improvements: Participation in all or a portion of the costs of roadway improvements serving the Facility.
  - 5.7.4. Storm Drainage Improvements: Participation in all or a portion of the costs of storm drainage improvements at or downstream of the Facility.
- 5.8. Development Cost Participation: The City may consider participation in the following development cost Incentives.
  - 5.8.1. Demolition: Participation in all or a portion of the costs of demolishing existing structures on a property.
  - 5.8.2. Environmental Mitigation: Participation in all or a portion of the costs of mitigating environmental issues on a property.

- 5.9. Process Related: The City of Keller provides timely and competitive permitting and development processing, however, the City may consider process-related assistance as deemed appropriate and when adequate Staffing is available. In all instances, any accelerated or unique process shall meet all statutory requirements.
- 5.10. Economic Development District Establishment: In instances where the Project is of a significant scope and scale, the City may consider the establishment of unique economic development districts (e.g. Tax Increment Reinvestment Zone, Public Improvement District).
- 5.11. Hotel Occupancy Tax: The City may consider the use of Hotel Occupancy Tax pursuant to Chapter 351 of the Texas Tax Code.
- 5.12. Support for State Incentives: The City may consider providing support for the Project in the application and processing of State of Texas incentives.
- 5.13. Support for Federal Incentives: The City may consider providing support for the Project in the application and processing of Federal incentives.

### Section 6.

#### ***Minimum Performance Requirements***

The following shall identify the Minimum Performance Requirements for each project classification. These requirements are new construction, revenues or employees attributable to the Project.

<b>Project Classification</b>	<b>Min. New Construction Cost</b>	<b>Min. New FTE Employees</b>	<b>Min. New Taxable Sales<sup>1</sup></b>	<b>Notes / Examples</b>
Corporate	\$500,000	15	-	• Significant office uses, e.g. Corporate HQ or regional HQ
Industrial	\$500,000	15	-	• Owner occupied, industrial / logistics business
Retail	-	-	\$250,000	•
Hotel / Conf. Center	\$500,000	-	-	• Hospitality or entertainment venues including hotels and conference centers
Development	\$500,000	-	\$1,000,000	• New development

<sup>1</sup>Generated annually

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**Section 7.**  
***Administrative Procedures***

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

- 7.1. Pre-Submittal: All Applicants are encouraged to meet with the Director prior to preparation of an Application. Applicants should contact the office of Economic Development to set up a meeting.
- 7.2. Application Requirements: The submittal of an Application is required prior to any evaluation of the request for Incentives. The Application shall include the following information.
  - 7.2.1. General Information:
    - A. The name of the Project.
    - B. The intended use (e.g. Call center, corporate / regional office, professional office, retail, distribution).
    - C. If the Project is a relocation, consolidation or expansion of existing facilities, identify the location of the existing facilities.
    - D. An overview of the Company.
    - E. The NAICS Code of the Company's business.
    - F. A description of the experience and qualifications of the Project Team.
    - G. The type of Project (i.e. retention, expansion, own / lease, new development).
  - 7.2.2. Property Information:
    - A. Property address.
    - B. Lot / Block / Subdivision name if platted. If not platted, a legal description will be required prior to executing any Agreements.
    - C. Appraisal District Property ID numbers.
    - D. Current Appraisal District valuations for all parcels.
    - E. Acreage.
    - F. Current owner and proof of ownership (e.g. deed, appraisal info)
  - 7.2.3. Eligibility of Property: Address the eligibility requirements in Section 3.1.
  - 7.2.4. Eligibility of Business: Address the eligibility requirements in Section 3.2.
  - 7.2.5. Priorities: Address the priorities in Section 4.0.
  - 7.2.6. Project Data:
    - A. Business name.
    - B. Describe the type of building proposed (e.g. number of stories, style, materials)
    - C. Describe the development concept (e.g. single building or campus setting, open space, surface or structured parking)
    - D. Describe the extent that any infrastructure component is enhanced or expanded.
    - E. Provide timing estimates for major milestones of the Project.
    - F. Provide estimates of Project data by phase and date, including but not limited to:
      - i. List the kind, number, use, square footage and location of all the proposed improvements on the property.

- ii. Total capital investment including acquisitions, Improvements, building costs and equipment.
- iii. Estimated Appraised Value of all Improvements.
- iv. Acquisition cost of all Business Personal Property
- v. Estimated Appraised Value of all Business Personal Property.
- vi. Number, type, quality and wage levels of new Full-Time Equivalent (FTE) employees.
- vii. New Payroll added.
- viii. Average employees' annual salary.
- ix. Employees with salary \$75,000 or greater.
- x. Benefits provided to employees.
- xi. Taxable sales from the Facility.
- xii. Hotel Occupancy Tax generated (if applicable).

7.2.7. Requested Incentives: The Applicant shall itemize the Incentives (Section 5) they are requesting from the City. These are to be prioritized by order of preference by the Applicant.

7.2.8. Required attachments and / or exhibits:

- A. Legal description of the Property.
- B. Proof of ownership, or contract option or offer.
- C. Photos of existing conditions
- D. Drawings, renderings, plans of the proposed Improvements.
- E. 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.
- F. If Applicant is not the Property owner:
  - i. Written approval of the Application from the owner
  - ii. Copy of the signed lease agreement

7.2.9. Amendments: Staff may amend the form of the Application as needed to more efficiently evaluate the merits of the requested Incentives.

7.3. Review & Evaluation: Following are criteria to review and evaluate the Application.

7.3.1. Review Criteria:

- A. Completeness of Application: Completeness of the Application; including all required documentation.
- B. Application Information: Any information provided in the Application.
- C. Priorities: Does the Application include a high-priority business classification or is it located in a high-priority geographic area?
- D. General Eligibility: Does the Project meet the General Eligibility requirements?
- E. Revenues: What are the net tax revenue benefits to the City, both Ad Valorem and Sales Taxes?

- F. Employment: How many people will be employed by the Project? What are the education level requirements for employment? Are the wages to be paid higher than the average in the area?
  - G. Impacts: An estimation of the positive and negative impacts that the Project might have.
    - i. Cannibalization of Existing Businesses: To what extent does the Project cannibalize the profitability of an existing business?
    - ii. Private Investment Catalyst: To what extent does the Project act as a catalyst for future private investment?
    - iii. City Services: To what extent does the Project have a positive or negative impact on the Services or infrastructure of the City?
- 7.3.2. Staff Evaluation: The coordinating Staff member shall convene a team of the appropriate Staff members to evaluate the Application.
- 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.
  - B. Financial Analysis: If deemed necessary, Staff shall analyze the financial aspects of the incentive proposal using an appropriate method (return on the investment of Incentives in the Project and / or the timing required for new revenues to “break-even” with the cost of the proposed Incentives).
  - C. Consulting Services: Should a consulting service be deemed necessary by the City to aid in their evaluation (e.g. financial impacts / cost-benefit analysis, infrastructure impacts or capabilities), the Applicant may be required to submit additional information not required in the Application. Additionally, the City may require that the Applicant participate up front in the cost of obtaining these services.
- 7.4. Preliminary Discussions: Upon receipt of a satisfactory Application, Staff shall hold preliminary discussions with Council regarding the merits of the Incentives request and advise Staff whether or not to proceed with negotiations of an Agreement in Principle.
- 7.5. Agreement in Principle: The Director shall lead the negotiation and drafting of a non-binding Agreement in Principle (AIP) memorializing in writing the Project’s performance requirements and the Incentives to be provided by the City. This shall include engagement of Project representatives, the Board, City Council and their legal representatives if appropriate. Evolution of changes in the AIP shall be documented via redline / strikeout drafts as progress is made.
- 7.5.1. Preliminary Approval: Staff shall seek preliminary approval of the AIP from Project representatives and City Council prior to preparation of a Performance Agreement.
- 7.6. Performance Agreement: A Performance Agreement shall be required for all Projects receiving Incentives from the City in accordance with the following.
- 7.6.1. Preparation: The Director shall work with legal representatives for the City and / or Board to prepare a Performance Agreement substantially conforming to the provisions of the Agreement in Principle.
- A. Allied Agency Engagement: Though not a party to any City Performance Agreement, Staff shall engage and keep informed any allied agencies (County, School District) contemplating their own incentives for the Project.

- 7.6.2. 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. Base Year Value: Provide that the Agreement does not include any reduction in Base Year Values.
  - C. Access: Provide access to and authorize inspection of the property by City employees or their designated representatives to ensure that the improvements or repairs are made according to the specifications and conditions in the Agreement.
  - D. 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.
  - E. Recapture Provisions: Provide for the recapture of property tax revenue lost or any Incentives provided as a result of the Agreement if the owner of the Property fails to make the improvements or repairs as provided by the Agreement.
  - F. Term: Describe the term of the Agreement.
  - G. 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.
  - H. Cancellation / Modification: Provide that the City may cancel or modify the Agreement if the property owner fails to comply with the Agreement.
- 7.6.3. Responsiveness: The offer of Incentives by any Performance Agreement shall expire ninety (90) days from the date it is provided to the Applicant unless extended in writing by the City. The expiration of any offered Performance Agreement shall not preclude continued negotiations toward the development of an alternative Agreement.
- 7.6.4. Approvals: Evaluation and any subsequent approval shall be on a case-by-case basis pursuant to the introductory paragraph of Section 1 herein. All Performance Agreements, including any Tax Abatement Agreement, shall follow and comply with all statutory requirements for notice, hearings and readings where applicable. The Board shall review all Performance Agreements prepared pursuant to this Policy and make a recommendation to the City Council prior to their consideration. The Council shall review and consider the Performance Agreement and make the final decision regarding approval of the Agreement and Incentives to be provided, if any.
- 7.6.5. Compliance Reporting: All Performance Agreements shall include requirements for reporting compliance with the provisions of the Agreement prior to disbursement of incentive funds.

## **Section 8.**

### ***Applicant / Owner Certifications***

The following Applicant / Owner Certifications shall be included in the submitted Application.

- 8.1. Application Accuracy: The information provided in this Application, and all that may have been affixed hereto, is true and correct, and that the City may rely on all of the information contained herein, and all that may have been affixed hereto, as being true and correct.
- 8.2. Performance Agreement: I (we) acknowledge that a Performance Agreement will have to be executed prior to receiving any Incentives.

- 8.3. Discretionary Rights: I (we) acknowledge that the City 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.

### **Section 9.**

#### ***General Provisions***

- 9.1. Flexibility: The terms and conditions of this Policy are to be considered guidelines during deliberation and evaluation. The City reserves the right to modify the terms and conditions herein at any time, including for any pending application, and may approve a Tax Abatement Agreement or Performance Agreement and the Incentives related thereto, on terms and conditions contrary to the guidelines of this Policy.
- 9.2. 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.
- 9.3. 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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# Keller, Texas

## Incentives Application

Mary Meier-Culver  
 Director of Economic Development  
 (817) 743-4009  
[mmeier@cityofkeller.com](mailto:mmeier@cityofkeller.com)

<b>1</b>	<b>GENERAL INFORMATION</b>			
a	<b>Project Name:</b>			
b	<b>Intended Use (e.g. Call center, corporate / regional office, professional office, retail, distribution):</b>			
c	<b>If project is a relocation or consolidation of existing facilities, identify the location of the existing facilities:</b>			
d	<b>Company Overview:</b>			
e	<b>NAICS Code:</b> (See this link for help) <a href="https://www.census.gov/naics/">https://www.census.gov/naics/</a>			
f	<b>Project Team Experience &amp; Qualifications:</b>			
g	<b>General comments from Applicant (if desired):</b>			
	<b>Yes</b>	<b>No</b>	<b>Type of Project</b>	<b>Notes</b>
h			Retention of existing business	• Years in business at this location?
i			Expansion or modernization of existing facility	•
j			New business / to own new facility	•
k			New business / to own existing facility	•
l			New business / leasing existing facility	•
m			New business / leasing new facility	•
n			Development	•
o			Other:	•
<b>2</b>	<b>PROPERTY INFORMATION</b>			
a	<b>Property Address:</b>			
b	<b>Lot / Block / Subdivision Name:</b>			
c	<b>Appraisal District Property ID Numbers:</b>			
d	<b>Current Appraisal District Valuations of all Parcels:</b>			
e	<b>Acres:</b>			
f	<b>Currently owned by:</b>			
<b>3</b>	<b>ELIGIBILITY OF PROPERTY</b> [Section 3.1]			
	<b>Yes</b>	<b>No</b>	<b>Item</b>	<b>Notes</b>
a			Within the City?	•
b			Zoned appropriately for use?	•
c			City taxes in good standing?	•
d			No City liens existing?	•
e			Proof of ownership provided?	•
f			Outstanding code violations?	•
g			Construction has not commenced?	•
<b>4</b>	<b>ELIGIBILITY OF BUSINESS</b> [Section 3.2]			
	<b>Yes</b>	<b>No</b>	<b>Item</b>	<b>Notes</b>
a			Business taxes in good standing?	•
b			Tax paying entity?	•
c			If not owner, authorization provided?	•
d			If existing business, in City 2 years?	•



5	<b>PRIORITIES</b> [Section 4.0]					
	<b>Yes</b>	<b>No</b>	<b>Preferred Area?</b>	<b>Notes</b>		
a			Properties with the City's TIRZ #2	•		
	<b>Yes</b>	<b>No</b>	<b>Preferred Business?</b>	<b>Notes</b>		
b			High quality full-service restaurants	•		
c			Experiential retail that is family-friendly and will attract visitors to Keller to enjoy a unique experience	•		
d			Small employers with high-paying jobs that match our resident's demographics	•		
e			Business that generate high-paying jobs	•		
f			Businesses that have a limited impact on the natural environment	•		
g			Technology services	•		
h			High sales tax generators	•		
6	<b>PROJECT DATA</b> [Section 7.2.6]					
a	<b>Business Name:</b>					
b	<b>Describe the type of building proposed (e.g. # of stories, style, materials, etc.):</b>					
c	<b>Describe the development concept (e.g. single building or campus setting, open space, surface or structured parking, etc.):</b>					
d	<b>Describe the extent that any infrastructure component of the Town is enhanced or expanded:</b>					
e	Month / Year	<b>Timing</b>		<b>Notes</b>		
f		First development application		• (zoning, site plan, etc)		
g		Desired approval date		•		
h		Ground breaking		•		
i		Phase 1 occupancy		•		
j		Phase 2 occupancy		•		
k		Phase 3 occupancy		•		
	<b>Estimated Data by Phase and Date</b>			Phase 1 Month / Year	Phase 2 Month / Year	Phase 3 Month / Year
l	Building(s) construction in square feet					
m	Construction cost all Improvements					
n	Estimated appraised value of all Improvements					
o	Acquisition cost of all business personal property					
p	Estimated appraised value of BPP					
q	New full-time equivalent (FTE) employees					
r	New payroll added					
s	Average employees annual salary					
t	Employees w salary \$75,000 or greater					
u	Benefits provided					
v	Taxable sales from the Facility					
w	Hotel occupancy tax generated					
x	Add notes about any item above:					
	6.n	e.g. Note here				
7	Policy Section	<b>INCENTIVE(S) REQUESTED</b> <i>In priority order</i>		Estimated Full Cost	<b>Requested</b>	
					%	Term-Yrs
						Amount
a	5.?			\$		\$
b	5.			\$		\$
c	5.			\$		\$
d	5.			\$		\$

e	5.		\$			\$
f	5.		\$			\$
Add justification and / or notes about any item above:						
	7.a	e.g. Note here				
<b>8 ATTACHMENTS / EXHIBITS</b>						
	<b>Yes</b>	<b>No</b>	<b>Item</b>		<b>Notes</b>	
a			Legal description of property		•	
b			Proof of ownership		•	
c			Photos of existing conditions		•	
d			Drawing, renderings, plans of the proposed Improvements		• If not included in development application	
e			Copy of the signed lease agreement		• If Applicant is not property owner	
f			Current AV tax appraised value estimates for 3 similar projects		•	
9	<b>Applicant / Owner Certifications:</b> In accordance with Resolution 4471 adopting the Incentives Policy, the undersigned do hereby certify the following:					
a	<b>Application Accuracy:</b> The information provided in this Application, and all that may have been affixed hereto, is true and correct, and that the City may rely on all of the information herein contained, and all that may have been affixed hereto, as being true and correct.					
b	<b>Performance Agreement:</b> I (we) acknowledge that a Performance Agreement (PA) will have to be executed prior to receiving any Incentives.					
c	<b>Discretionary Rights:</b> I (we) acknowledge that the City has the absolute right of discretion in deciding whether or not to approve an incentive relative to this application, whether or not such discretion is deemed arbitrary or without basis in fact.					
10	<b>I (we) hereby affirm the Certifications noted above and approve this Incentives Application and the incentive requests identified herein.</b>					
<b>Property Owner</b>			<b>Applicant / Primary Incentives Contact</b>			
Company:			Company:			
Signed:			Signed:			
Name:			Name:			
Title:			Title:			
W:		C:	W:		C:	
EM:			EM:			
Address:			Address:			